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PLEASE DESTROY ALL
PREVIOUS ISSUES.
LAWSON
OF THE

State of Montana

RELATING TO

Insurance and Surety Companies

COMPILED BY

Insurance Department

STATE AUDITOR'S OFFICE

April 1, 1909

H. R. CUNNINGHAM

State Auditor and Commissioner of Insurance Ex-Officio

C. D. FRENCH

Deputy Commissioner of Insurance

1909

"INDEPENDENT PUBLISHING COMPANY, HELENA, MONTANA."



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MEMORANDUM

Relating to

FEES AND TAXES

Required of

Insurance Companies

Admission fee required of all Foreign Insurance Companies except Assessment Life	\$300.00
Admission fee—Assessment Life Companies, (special act)	\$100.00
Filing Annual Statement	\$25.00
(Statement must be filed not later than March first, showing condition of company as of December thirty-first preceding.)	
For license to collect in any year \$5,000.00, or less, in gross premiums, upon the basis of 2½ per cent tax	\$125.00
For additional license to collect premiums in excess of \$5,000.00 gross upon the basis of 2 per cent, \$20.00 per thousand.	
All agents' licenses	\$5.00
Company license expires March 31st.	
Agent's license expires March 31st.	

One license held to be sufficient in the case of a firm or company acting as agent.

Miscellaneous Companies doing a SURETY BUSINESS are considered Insurance Companies and subject to the same regulation, fees and taxes.

PUBLICATION FEE.—The publication of the certificate of the State Auditor is required, showing a compliance with the Insurance Statutes, and containing, in addition thereto, a condensed statement of Assets and Liabilities, Income and Expenditures. The fee for such publication is \$9.00 and is paid to the Auditor, who designates the publication as provided by law.

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STATE OF MONTANA

DIVISION I.

COMMISSIONER OF INSURANCE.

[Act of February 13, 1909.]

HOUSE BILL NO. 80.

A Bill for an Act to provide that the State Auditor shall also be designated as Commissioner of Insurance, Ex-Officio; and to provide for the appointment of a Deputy State Auditor who shall also be known as Deputy Commissioner of Insurance, and to fix his salary and to provide for the employment of an actuary.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. [Section 1.]-**Commissioner of Insurance—Deputy Commissioner—Duties**—The State Auditor, in addition to his present title, shall be hereafter designated as Commissioner of Insurance, Ex-Officio. He shall appoint a Deputy in addition to the Deputy State Auditor provided for in Section 143, Revised Codes of Montana of 1907, who shall have the same authority and powers granted by said section, and, in addition thereto, be known as Deputy Commissioner of Insurance, and shall be in charge of the department of insurance in the said Auditor's office under the direction and control of said State Auditor and Commissioner of Insurance, Ex-Officio; **provided**, that nothing herein contained shall be construed to authorize an increase of the number of employees in said office and the office of Insurance Clerk is hereby abolished.

Section 2. [Section 2.]-**Salary of Deputy Commissioner**—Said Deputy authorized by this Act shall receive a salary of Twenty One Hundred (\$2,100.00) Dollars per annum.

Section 3. [Section 3.]—**Actuary—Duties**—The State Auditor and Commissioner of Insurance, Ex-Officio, may employ an Actuary when required, who shall be experienced and skilled in insurance matters and fully competent to perform any actuarial duties of the insurance department, and to assist in or take charge of the examination of insurance companies under the general direction of the Commissioner or his Deputy. (Approved Feburay 13, 1909.)

(Note.—See, also, Section 3 of House Bill 76, act approved February 13, 1909, below, with respect to designations of officers of the Insurance Department.)

DIVISION II.

INSURANCE COMPANIES GENERALLY.

[Revised Codes 1907, as amended by Laws of 1909.]

Chapter I.

(Div. I., Part IV., Title III., Revised Codes, 1907.)

Section 4. [4016 R. C.]—**Definitions and Classifications**—Corporations, Associations, and Societies organized to do the following described business are insurance corporations within the meaning of this Act.

First. To insure against loss or damage by fire, lightning, tornadoes or hail, all kinds of buildings, merchandisè, household furniture and other property.

Second. To insure the lives and health of persons, and to grant, purchase or dispose of annuities.

Third. To insure against injuries, death or disablement of persons resulting from traveling, or from accident by land or by water; to insure against employees liability to employers and employers to employees; to insure the lives of horses, cattle or other live stock; to insure plate glass against breakage, or steam boilers against explosion and against loss or damage to life or property resulting therefrom; against loss by burglary or theft, or both; and against the risks of navigation and transportation.

Foreign insurance corporations, associations, and societies shall include every insurance corporation, association and so-

ciety organized under the laws of the United States of America for any State or Territory of the United States of America other than this, or any nation, government or country.

Domestic insurance corporations, associations and societies shall include every insurance corporation, association and society organized under the laws of this State. (Act approved March 4, 1897.)

Section 5. [4017 R. C.]—**License Fee—Amount**—All insurance corporations, associations and societies as hereinbefore specified in the preceding section, before commencing to do business in the State of Montana, shall be required to secure a license authorizing them to transact business of insurance corporations, associations or societies, and shall pay to the State Auditor for such license the following fees:

For a license to collect in any one year premiums amounting to the sum of five thousand dollars or less, one hundred and twenty-five dollars.

For a license to collect in any one year premiums over the sum of five thousand dollars, the sum of twenty dollars, for each and every one thousand dollars to be so collected. (Act approved March 4, 1897.)

Section 6. [4018 R. C.]—**Duplicate License—Filing of Copy**—The State Auditor upon the payment of the fees enumerated in the preceding section shall issue in duplicate a license as therein provided, one copy of which shall be forthwith filed in the office of the State officer having jurisdiction over and charge of enforcement of the laws of the State of Montana, pertaining to insurance corporations. (Act approved March 4, 1897.)

Section 7. [4019 R. C. as amended by Act of February 13, 1909, House Bill 79.]—**Licenses Expire When**—All licenses issued under this Act shall expire on the 31st day of March of each year.

Section 8. [4020 R. C.]—**Duty to Comply With Law**—Nothing in this Act shall be construed in permitting any insurance corporation, association or society to do business in the State of Montana even when in possession of the license provided for herein unless such corporation, association or society shall have complied with the laws of the State of Montana now in

force or which may hereafter be enacted. (Act approved March 4, 1897.)

Section 9. [4021 R. C.]—**Failure to Pay Fee—Penalty—**Every foreign insurance corporation, association and society which may hereafter desire to engage in the business of insurance in this State shall first pay as a fee for filing the documents provided for in Section 4062 of the Civil Code of Montana, the sum of three hundred dollars, and if any person or persons, agents, officers or trustees of any corporation, association and society doing business shall cause to be issued or procure, receive or forward, applications for insurance, or deliver policies for any company or companies or associations of persons not having complied with the provisions of this Act, or shall adjust any loss, or in any manner either directly or indirectly aid in the transaction of insurance with any such company in this state, or in any way violate the provisions of this Section shall upon conviction be deemed guilty of felony. (Act approved March 4, 1897.)

Section 10. [4022 R. C.]—**Collecting Premiums Without License—Officers Guilty of Misdemeanor—**If any officer, trustee, agent, or other person shall directly or indirectly, collect any premium for any insurance company where such company has failed to obtain a license as provided for in this Act; or where such company has failed to obtain a license as provided for in this Act, or where such company has collected premiums in excess of the amount already provided for in the license already obtained and shall have failed for a period of forty-five days after collecting such excess to obtain the additional license provided for by the provisions of Section 2 of this Act [Section 4017], such person upon conviction thereof shall be deemed guilty of a misdemeanor. (Act approved March 4, 1897.)

Section 11. [4023 R. C., as amended by Act of February 13, 1909, House Bill 79.]—**Agents Must Procure License—Violation of Act—Punishment—**Before transacting any fire, life or other indemnity or insurance business, each and every agent, firm or corporation acting as agent, solicitor or representative of such corporations or associations, shall procure annually from the State Auditor a certificate of authority or license as an

agent, solicitor or representative of each corporation or association represented by him or them, and which certificate shall terminate or expire on the 31st (thirty-first) day of March of each year unless sooner revoked or terminated as otherwise provided, for which a fee of five dollars for each certificate shall be paid to the State Auditor, provided, that the State Auditor is hereby prohibited from issuing a certificate of authority to write policies of insurance, or to solicit and obtain and transact insurance business, as defined in this Act, to any person, agent, firm or corporation, unless such person, agent, firm or corporation is a legal resident of the State of Montana at the time such certificate of authority is issued. Any person or persons who shall in any way violate the provisions of this section shall upon conviction be fined not less than fifty dollars nor more than one hundred dollars or imprisoned in the county jail for not less than thirty days nor more than ninety days, or both such fine and imprisonment at the discretion of the court. Certificates of authority or licenses issued under this section shall be considered the licenses of the company, corporation, association or society applying for the same and may at all times be transferred from the agent, firm or corporation for which the license was originally issued to another agent, firm or corporation on the surrender of the said license to the State Auditor, who will make the proper endorsement thereon.

Section 12. [4024 R. C.]—**Fraternal and Secret Societies Excepted**—Nothing in this Act shall be construed as affecting fraternal associations or secret societies, which may insure the lives of their members only. (Act approved March 4, 1897.)

Section 13. [4025 R. C.]—**Publication of Certificate and Annual Statement**—Every insurance company of the character provided for in this chapter, doing business in the state, organized under the laws of this or any other state or country, shall publish annually, before the first day of May, in two newspapers of general circulation, to be approved by the State Auditor, one of which shall be published at the seat of government, and in case of companies organized in the State, one in the county where the principal office is located, a certificate from the Auditor that such company has in all respects complied with the law of

the State relating to insurance, and an affidavit of such publication made by the publisher or foreman of such newspaper shall be filed in the office of the Auditor within thirty days from the date of such publication. Said certificate shall also contain a statement made up from the annual report of said company of the actual amount of paid up capital, the aggregate amount of assets and liabilities at the date of such report, together with the aggregate income and expenditures of such company for the preceding year, as shown by said report. (Act of March 2, 1907.)

Section 14. [4026 R. C.]—**Discrimination Prohibited**—No insurance company organized under the laws of this State, or doing business in this State, shall make or permit any discrimination or distinction in favor of individuals between insureds or property of the same class in the amount of, premiums or rates charged for policies or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor shall any such company or any agent thereof make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued thereon, nor shall any such company or agent pay or allow, offer to pay or allow, as inducement to insurance, any rebate of premium payable on the policy or any special favor or advantages in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy contract of insurance. (Act approved March 7, 1903)

Section 15. [4027 R. C.]—**Penalty for Violation of Act**—Every corporation or officer or agent thereof which shall violate any of the provisions of this Act shall be fined in any sum not exceeding five hundred dollars to be recovered by any action in the name of the State, and on collection to be paid into the county treasury for the benefit of the common school fund. (Act approved March 7, 1903)

Section 16. [4028 R. C.]—**Violation by Agent—Misdemeanor**—Every officer or agent of any such corporation who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor. (Act approved March 7, 1903.)

Section 17. [4029 R. C.]—**Revocation of License**—It shall be the duty of the State Auditor, upon being satisfied that any corporation, or agent thereof, has violated any of the provisions of this Act, to revoke the license of the company or agent so offending, and no license shall be granted to such company or agent for one year after such revocation. (Act approved March 7, 1903.)

Section 18. [4030 R. C.]—**Fraternal Societies Excepted**—Nothing in this Act shall be construed as affecting fraternal associations or secret societies, which may insure the lives of their members only.

Chapter II.

(Div. I, Part IV, Title III, Revised Codes, 1907.)

STOCK AND MUTUAL INSURANCE CORPORATIONS.

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Section 19. [4042 R. C.]—**Notice and Certificate—Articles of**

Incorporation—Name—When any number of persons associate themselves together for the purpose of forming an insurance corporation for any other purpose than life insurance, they shall publish a notice of such intention once a week for four consecutive weeks, in some public newspaper in the county in which such insurance corporation is proposed to be located; and they shall also make articles of incorporation, as provided in Section 3818 of this Code, and forward to the State Auditor, who shall submit the same to the Attorney General for examination, and if it shall be found by the Attorney General to be in accordance with the provisions of this Chapter, and not in conflict with the constitution and laws of the United States and this State, he shall make a certificate of the facts and return it to the State Auditor, who shall reject the name or title applied for by any persons, when he shall deem the same so similar to any one already appropriated by any other company or corporation as to be likely to mislead the public.

(Note.—Sec. 3818 mentioned above, refers only to the formation of insurance companies in Montana.)

Section 20. [4043 R. C.]—Approval of Articles by State Auditor—When the articles of incorporation shall have received the approval of the State Auditor, such articles, with the approval, must be filed, recorded, and certified, as required by Section 3825 of this Code.

Section 21. [4044 R. C.]—Amount of Capital Stock—Shares, How Paid For—The capital of every corporation formed under the provisions of this Chapter shall not be less than two hundred thousand dollars, nor more than one million dollars, as may be specified in the articles of incorporation. Any such corporation shall issue stock divided into shares of the par value of one hundred dollars each, at least fifty per cent of which stock shall be fully paid up in cash, and the remainder of the stock shall be paid for by notes made to the corporation by the stockholders, secured by at least one surety, or by mortgages on unincumbered real estate within this State worth at least twice the amount of such notes, which notes or other security shall be approved of by the State Auditor.

Section 22. [4045 R. C.]—**Mutual Insurance—Capital Stock—How Paid For**—No corporation on the plan of mutual insurance shall commence business in this State, until agreements shall have been entered into for insurance with at least two hundred applicants, the premiums upon which shall amount to not less than twenty-five thousand dollars, of which at least five thousand dollars shall have been paid in cash, and for the remainder of which, notes of solvent parties, founded upon actual bona fide applications for insurance, shall have been received. No one of the notes received, as aforesaid, shall amount to more than five hundred dollars, and no two thereof shall be given for the same risk, or made by the same person or firm, except when the whole amount of such notes does not exceed the sum of five hundred dollars, nor shall any note be regarded or represented as capital stock unless a policy be issued upon the same within thirty days after the organization of the corporation taking the same, upon a risk which shall be for no shorter period than twelve months; each of said notes shall be payable, in whole or in part, at any time when the directors shall deem the same requisite for the payment of losses by fire or inland navigation, and such incidental expenses as may be necessary for transacting the business of said corporation; and no notes shall be accepted as a part of such capital stock, unless the same shall be sufficiently indorsed or secured, if security is required by the directors, and no such note shall be surrendered while the policy for which it was given continues in force.

Section 23. [4046 R. C.]—**Capital Stock—Opening of Subscription Books**—Having published the notice, and filed the publisher's affidavit of the publication thereof with the State Auditor, together with the articles of incorporation as required by Section 4042 of this Chapter, the persons named in the articles of incorporation, or a majority of them, shall open books for the subscription of stock to the corporation at such times and places as to them may seem convenient and proper, and shall keep the same open until the full amount specified in the articles of incorporation is subscribed; or in case the business of such corporation is proposed to be conducted on the

plan of mutual insurance, then they shall open books and receive propositions and enter into agreements in the manner, and to the extent, specified in Sections 4044 and 4045 of this Chapter.

Section 24. [4047 R. C.]—**Number of Directors—Election—Term of Office**—The affairs of any corporation organized under the provisions of this Chapter shall be managed by not more than thirteen nor less than three directors, all of whom shall be stockholders. Within thirty days after the requisite amount of stock has been subscribed, cash paid and notes given and approved, a meeting for the election of directors shall be called and held and directors elected as provided for the election of directors or trust deposit and security corporations in Section 3926 of this Code, and the directors so elected shall continue in office until their successors have been duly elected and qualified, and thereafter directors shall be annually elected as provided in Section 3830 of this Code.

Section 25. [4048 R. C.]—**Investment of Funds**—It shall be lawful for any insurance corporation organized under this Chapter or incorporated under any law of this State to invest its capital and the funds accumulated in the course of its business, or any part thereof, in bonds and mortgages on unincumbered real estate within this State worth double the sum loaned thereon, exclusive of buildings, unless such buildings are insured in some responsible company or companies, and the policy or policies transferred to said corporation, and also in stocks of this State or stocks or treasury notes of the United States, in the stocks and bonds of any county or incorporated city in this State, and to lend the same or any part thereof on the security of such stocks, or lands, or treasury notes, or upon bonds and mortgages, as aforesaid, and not otherwise, and to change and re-invest the same in like securities, as occasion may from time to time require; but surplus money over and above the paid up capital stock of any such corporation organized under this Chapter, or incorporated under any law of this State, may be invested in or loaned upon the pledge of public stocks of the United States, or any of the States, or stocks, bonds, or other evidences of indebtedness of any solvent dividend paying institution incorporated under the laws of this State or the United

States, except their own stock; Provided, always, That the current market value of such stocks, bonds, or other evidence of indebtedness shall be at all times during the continuance of such loans at least twenty per cent more than the sum loaned thereon.

Section 26. [4049 R. C.]—**Examination by Auditor—Certificate—Recordation**—Upon receiving notification that the requirements of the preceding sections have been complied with, the State Auditor shall make an examination, or cause one to be made, by some disinterested person officially appointed by him for that purpose, and if it shall be found (if the examination shall be made other than by the Auditor, then the finding shall be certified under oath), that the capital herein required by the corporation named, according to the nature of the business proposed to be transacted by such corporation, has been paid in and possessed by it in money, or in such stocks, notes, bonds or mortgages as are required by Sections 4044, 4045 and 4048 of this Chapter, then he shall so certify, and if the examination be made by any other than the Auditor, then the finding shall be certified under oath; or, in the case of a mutual insurance corporation, that it has received and is in actual possession of the capital, premiums, or bona fide agreements of insurance, and securities to the extent and value required by Sections 4044, 4045 and 4048 of this Chapter, and the name and residence of the maker of each premium note forming part of the capital of any such proposed mutual insurance corporation, and the amount of such note, shall be returned to the Auditor. The corporators or officers of any such corporation or proposed corporation contemplated by this Chapter shall be required to certify under oath to the State Auditor that the capital exhibited to the person making the examination directed in this section was bona fide property of the corporation so examined; the certificates above named shall be filed in the office of the said Auditor, who shall thereupon deliver to such corporation a certified copy of the same, with his written permission for it to commence business as proposed in its articles of incorporation, which certificate and permission, on being recorded in the office of the county clerk of the county in which the corporation is to

be located, in a book prepared for that purpose, shall be its authority to commence business and issue policies, and such certified copy of said certificate and premiums may be used in evidence for or against said corporation with the same effect as the originals.

Section 27. [4050 R. C.]—**Powers—Restrictions—Exceptions**
—It shall be lawful for any corporation organized under this Chapter and doing business in this State:

1. To insure houses, buildings, and all other kinds of property against loss or damage by fire or other casualty, and to make all kinds of insurance on goods, merchandise, or other property in the course of transportation, whether on land or water.

2. To make insurance on the health of persons, and against the personal injury, disablement, or death, resulting from traveling or general accident by land or water.

3. To insure the fidelity of persons holding places of public or private trust.

4. To receive on deposit, and insure the safe keeping of books, papers, moneys, stocks, bonds, and all kinds of personal property.

5. To insure horses, cattle, and other stock against loss or damage by accident, theft, or any unknown or contingent event whatever, which may be the subject of legal insurance; to lend money on bottomry or respondentia, and cause itself to be insured against any loss or risk it may have incurred in the course of its business, and upon the interest which it may have in any property by means of any loan or loans which it may make on mortgages, bottomry or respondentia, and generally to do all things proper to promote these objects. No corporation shall be organized to issue policies of insurance for more than one of the above mentioned purposes; and no corporation that shall have been organized for either one of said purposes shall issue policies of insurance for any other; and no corporation organized under this Chapter, or transacting business in this State, shall expose itself to loss on any one risk or hazard to an amount exceeding ten per cent of its paid up capital, or write on a risk within the corporate limits of any one city an amount represent-

ing more than the paid up capital of the corporation, unless the excess shall be insured by the same in some other good and reliable company or companies. The restriction as to the amount of risk any such corporation shall assume, shall not apply to corporations organized to guarantee the fidelity of persons in places of public or private trust, or to corporations that receive on deposit and guarantee the safe keeping of books, money and papers, and other property.

Section 28. [4051 R. C.] **Policies—How Made—Signed by Whom—Attest—**All policies or contracts of insurance made or entered into by any such corporation may be made either with or without the seal of the corporation, but such policies shall be subscribed by the president, or such other officer as may be designated by the directors for that purpose, and shall be attested by the secretary thereof.

Section 29. [4052 R. C.] **Increase of Capital Stock—Certificate—Where Filed—**If the capital stock of said corporation shall be increased as provided in Section 3894 of this Code, a certificate showing such increase shall be filed with the State Auditor, who shall make or cause to be made, an examination of the securities composing such capital stock thus increased as provided in Section 4049, and if satisfied therewith, such Auditor shall thereupon deliver to such corporation a certified copy of such examination with his written permission to do business upon such increased capital, a copy of which certificate and permission shall be filed in the office of the Secretary of State, and of the county clerk of the county where the principal place of business of said corporation is located.

Section 30. [4053 R. C.] **Dividends and Profits—Unearned Premiums—**In shall not be lawful for the directors of any insurance corporation organized under this Chapter, or incorporated under any law of this State, to make any dividend except from the surplus profits arising from their business, and in estimating such profits there shall be reserved therefrom a sum equal to fifty per cent of the amount received as premiums on unexpired risks and policies, which amount so reserved is hereby declared to be unearned premiums; and there shall also be reserved all sums due the corporation on bonds and mortgages,

bonds, stocks and book accounts, of which no part of the principal or interest thereon has been paid during the year preceding such estimate of profits and upon which action for foreclosure or collection has not been commenced, or which, after judgment has been obtained thereon, shall have remained more than two years unsatisfied, and upon which interest shall not have been paid; and in case of any such judgment the interest due or accrued thereon and remaining unpaid, shall also be reserved. The making of a dividend contrary to these provisions shall subject the corporation making it to a forfeiture of its charter.

Section 31. [4054 R. C.]—**Real Estate—Acquiring Limited**—No corporation organized under this Chapter shall purchase, hold or convey any real estate, except for the purpose and in the manner herein set forth, to-wit:

1. Such as shall be necessary in the proper transaction of its business.

2. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for money due; or,

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the legitimate business of the corporation, or for money due; or,

4. Such as shall have been purchased at sales, upon judgments, decrees or mortgages obtained or made for debt or security; and it shall not be lawful for any such corporation to purchase, hold or convey real estate which shall be found in the course of its business not necessary for the transaction thereof; and all such last mentioned real estate shall be sold and conveyed within three years after the same shall have been declared by the State Auditor unnecessary for its business, unless the corporation shall procure a certificate from the said Auditor that the interest of said corporation will materially suffer by a sale within the time limited, in which event the sale may be postponed for such a period as said Auditor shall direct in said certificate.

Section 32. [4055 R. C.]—**Mutual Companies—Notes for Capital Stock—Liability of Maker**—All notes deposited with any mutual insurance corporation at the time of its organization,

as provided for in Sections 4044 and 4045 of this Chapter, shall remain security for losses and claims until the accumulation of the profits invested as required by Section 4048 of this Chapter shall equal the amount of cash capital required to be possessed by stock corporations organized under this Chapter, the liability upon each note decreasing proportionately as the profits are accumulated; but any note which may have been deposited with any mutual insurance corporation subsequent to its organization, in addition to cash premiums or any insurance effected with such corporation may, after the expiration of the time of such insurance, or upon the cancellation by the corporation of the policy, be relinquished and given to the maker thereof, or his legal representatives, upon paying his proportion of the losses and expenses, which may have accrued thereon during such term. The directors of any such corporation shall have the right to determine the amount of the note to be given in addition to the premiums by any person insured in such corporation; and every person effecting insurance in any mutual corporation, and his heirs, executors, administrators and assigns, continuing to be so insured, shall thereby become members of said corporation during the period of insurance, and shall be bound to pay for losses and such necessary expenses as aforesaid accruing to said corporation, in proportion to his or their deposit note or notes. Any person insured in any mutual corporation, except in the case of notes required by this Chapter, to be deposited at the time of its organization, may at any time return the policy for cancellation, and upon the payment of the amount due at such time upon the premium, note or notes shall be discharged from further liability thereon.

Section 33. [4056 R. C.]—**Assessments—When Payable—Neglect to Pay—Effect**—The directors shall, as often as they deem necessary, after receiving notice of any loss or damage, determine the sums to be paid by the several members as their respective portions of such loss, and publish the same in such manner as they shall deem proper, or the by-laws shall have prescribed, but the same to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the officers of the corporation within

thirty days after the publication of said notice; and if any member shall, for the space of thirty days after demand made personally or by letter for payment, neglect or refuse to pay the sum assessed upon him as a proportion of any loss aforesaid, the directors may sue for and recover the whole amount of his deposit note or notes, with costs of suit, but execution shall issue for assessment and costs as they accrue only, and every such execution shall be accompanied by a list of losses for which such assessment was made. If the whole amount of deposit notes shall be insufficient to pay the loss, the sufferers insured by the said corporation shall receive toward making good their respective losses a proportionate share of the whole amount of said notes, according to the sums to them respectively insured; but no member shall ever be required to pay for any loss more than the whole amount of his deposit note or notes.

Section 34. [4057 R. C.]—Name of Company—Title on Policy—Every insurance corporation hereafter organized as provided in this Chapter shall if it be a mutual corporation, embody the word “mutual” in its title, which shall appear upon the first page of every policy and renewal receipt; and every corporation doing business as a cash stock company, shall, upon the face of its policies, express in some suitable manner that such policies were issued by a stock corporation.

Section 35. [4058 R. C.]—Annual Statement—Failure to File—Duty of Auditor—It shall be the duty of the president, or of the vice president and secretary of each corporation organized under this Chapter or incorporated under any laws of this State, or doing business in this State, annually, on the first day of January of each year, or within sixty days thereafter, to prepare under oath and deposit in the office of the State Auditor, a full, true and complete statement of the condition of such company on the 31st day of December preceding the filing of such statement, which statement shall exhibit the following items and facts in the following forms, viz:

1. The amount of capital stock of the corporation.
2. The names of the officers.
3. The name of the corporation and where located.
4. The amount of capital paid up.

5. The property or assets held by the corporation, specifying the value, as near as may be, of the real estate owned by such corporation, and the amount of cash on hand and deposited in banks to the credit of the corporation, and in what banks the same is deposited, the amount of moneys, stocks or bonds deposited in any foreign country, state or territory of the United States for the special benefit of the assured therein; the amount of cash in the hands of agents and in the course of transmission; the amount of loans secured by first mortgages on real estate, with the rate of interest thereon, specifying the location of such real estate and its assessed valuation; the amount of all other bonds and loans, and how secured, with the rate of interest thereon, the amount due the corporation on which judgment has been obtained; the amount of stocks of this State, of the United States, of any incorporated city of this State, and of any other stock owned by the corporation, specifying the amounts, number of shares, and par and market value of each kind of stock; the amount of stock held by such corporation as collateral security for loans with amount loaned on each kind of stock, and premium notes paid and unpaid; the amount of interest actually due and unpaid; and all other securities and their value; the amount for which premium notes have been given on which policies have been issued.

6. The liabilities of such corporation, specifying the losses adjusted and due; losses adjusted and not due; losses unadjusted; losses in suspense and the cause thereof; losses resisted and in litigation; dividends either in scrip or cash, specifying the amount of each declared, but not due; dividends declared and due; the amount required to re-insure all outstanding risks on the basis of fifty per cent of the premium on unexpired risks under one year, and pro rata on all unexpired risks having more than one year to run; the amount due banks or other creditors; the amount of money borrowed and the security therefor; all other claims against the corporation.

7. The income of the corporation during the previous year, specifying the amount received for premiums exclusive of premium notes, the amount of premium notes received; the amount received for interest; the amount received for assessments, calls

on stocks or notes, or premium notes; the amount received from all other sources.

8. The expenditures during the preceding year, specifying the amount of losses paid during said term, stating how much of the same accrued prior, and how much subsequent to the date of the preceding statement, and the amount at which losses were estimated in such preceding statement; the amount paid for dividends; the amount paid commissions; salaries, expenses and other charges of agents, clerks and other employes; the amount paid for salaries, fees and other charges of office and directors; the amount paid for local, state, national and other taxes and duties; the amount paid for all other expenses, expenditures, including printing, stationery, rents, furniture, etc.

9. The largest amount insured in any one risk.

10. The amount of risks written during the year then ending.

11. The amount of risks in force having less than one year to run.

12. The amount of risks in force having more than one and not over three years to run.

13. The amount of risks having more than three years to run.

14. The following question must be answered, viz: "Are dividends declared on premiums received for risks not terminated."

The State Auditor must withhold or withdraw the certificate of authority from any such corporation neglecting or failing to comply with the provisions of this section.

Section 36. [4059 R. C.]—**Auditor May Demand Report at Any Time—Company Must Reply**—The State Auditor is hereby authorized and empowered to address any inquiries to any insurance corporation in relation to its business and condition, or any other matter connected with its transactions, which he may deem necessary for the public good, or for a proper discharge of his duties, and it shall be the duty of any corporation so addressed to promptly reply in writing thereto.

Section 37. [4060 R. C.]—**What Statement Shall Show Relative to Notes**—The statement of any corporation, the capital of which is composed, in whole or in part of notes, shall, in addition to the foregoing, exhibit the amount of notes originally

forming capital, and also what proportion of said notes are still held by such corporation and considered capital.

Section 38. [4061 R. C.]—**Foreign Companies—Prerequisites to Doing Business in State**—It shall be unlawful for any insurance corporation or company, organized or associated for any of the purposes specified in this Chapter, incorporated by, or organized under, the law of any other State, or the United States, or any foreign government, directly or indirectly, to take risks, or transact any business of insurance in this state, unless possessed of two hundred thousand dollars of actually paid up capital, exclusive of assets of any such corporation or company as shall be deposited in any other states or territories or foreign countries, for the special benefit or security of the insured therein; and any such company desiring to transact any such business as aforesaid by any agent or agents in this state must appoint one attorney in each county in which agencies are established, resident at the county seat, and must file with the State Auditor a written instrument, duly signed and sealed, authorizing such attorney of such corporation to acknowledge service of process for and in behalf of such company in this state, consenting that such service of process, mesne or final, upon such attorney, shall be taken and held as valid as if served upon the company, and also a certified copy of their charter or articles of incorporation, together with a statement under the oath of the president or vice president, or other chief officer and the secretary of the company for which they may act, stating the name of the company and the place where located, the amount of its capital, with a detailed statement of the facts as required from corporations organized under the laws of this state; such statement shall also show to the full satisfaction of the State Auditor that said company, if organized without the United States of America, has deposited in some one of the United States or territories a sum not less than one hundred thousand dollars for the special benefit or security of the assured therein, and shall file, also, a copy of the last annual report if any, made under any law of the state, territory or foreign country by which such company was incorporated; and no agent shall transact business for any company whose capital

is impaired by the liabilities, as stated in Section 4058 of this Chapter, to the extent of twenty per cent thereof while such deficiency shall continue. It is unlawful for any person to act for any insurance company or corporation referred to in this Chapter, directly or indirectly, in taking risks or transacting business of insurance in this state, without procuring from the State Auditor a certificate of authority that such company or corporation has complied with all the requirements of this Chapter.

Section 39. [4062 R. C., as amended by Laws of 1909.]—**Amount of paid-up Capital—Appointment of Attorney in Fact—Process—Service**—It shall not be lawful for any insurance company, association or partnership, organized or associated for any of the purposes specified in this chapter, incorporated by, or organized under the laws of any other state, or the United States, or any foreign Government, directly or indirectly, to take risks or transact any business of insurance in this state, unless possessed of two hundred thousand dollars of actual paid up capital, exclusive of any assets of any such company as shall be deposited in any other states or territories, or foreign countries, for the special benefit or security of the insured therein; any such company desiring to transact any such business as aforesaid, by any agent or agents in this state, shall appoint one attorney in fact in each county in which agencies are established, resident of such county, and shall file with the State Auditor a written instrument, duly signed and sealed, authorizing such attorney in fact of such company to acknowledge service of process, for and in behalf of such company in the state consenting that such service or process, mesne or final, upon such attorney shall be taken and held as valid as if served upon the company to the laws of this state, or any other territory or state, and waiving all claim of right or error by reason of such acknowledgement or service, and also that in case of death, absence, or if for any other cause, service of process cannot be made upon the attorney so appointed, service of process may be made on the State Auditor and Insurance Commissioner ex-Officio of this state, or his successors in office, with the same power and effect as that served upon such agent; and such power of attorney cannot be

revoked or modified (except that a new one may be substituted) so long as any policy or liability remains outstanding against said company in this state.

Whenever such lawful process against any insurance company shall be served upon the Commissioner he shall forthwith forward a copy of the process served on him by mail, post paid, and directed to the secretary of the company, or in case of companies of foreign countries, to the resident manager in this country; and shall also forward a copy thereof to the general agent of said company in this state.

Said company shall also file a certified copy of their Charter or deed of settlement, together with a statement under the oath of the president or vice president, or other chief officer, and the secretary of the company for which they may act, stating the name of the company and the place where located, the amount of its capital with a detailed statement of the facts and items, as required from companies organized under the laws of this state as per section 3920 hereof; such statement shall also show to the full satisfaction of the State Auditor and Insurance Commissioner ex-Officio that said company, if organized without the United States of America, has deposited in some one of the United States or territories, a sum not less than one hundred thousand dollars for the special benefit or security of the assured therein, and shall file also a copy of the last annual report, made under any law of the state, territory or foreign country by which said company was incorporated; and no agent shall be allowed to transact business for any company whose capital is impaired by the liabilities, as stated in Section 3920 of this Chapter, to the extent of twenty per cent. thereof while such deficiency shall continue; Provided, that no plate glass, health, accident, live stock, steam boiler, credit or other liability insurance company shall be permitted to do any business in this state unless possessed of an actual paid up cash capital of not less than one hundred thousand dollars. (Approved February 18, 1909.)

Section 40. [4063 R. C.]—**Annual Statements—Foreign Companies**—The statements and evidences of investments required of foreign companies, as above, shall be renewed an-

nually in such manner and form as required by this Chapter, and as said Auditor may direct, with any additional statement of the amount of the losses incurred and premiums received in this State, during the preceding year, so long as such agency continues, and the said Auditor, on being satisfied that the capital, securities, and investments remain secure as heretofore provided, shall furnish a renewal of his certificate.

Section 41. [4064 R. C.]—**Agents of Foreign Companies—Advertisements**—Every agent of any insurance company must, in all advertisements of such agency, publish the location of the company giving the name of the city town, or village, in which the company is located, and the State or government under the laws of which it is organized, and must in no case advertise any merely authorized capital, but must in all such advertisements be limited to actual paid up capital and cash assets liable for losses only. The term agent or agents used in this Chapter includes an acknowledged agent or surveyor or any other person or persons who in any manner, directly or indirectly, transact or aid in transacting the insurance business of any insurance company not incorporated by the laws of this State. The provisions of the foregoing sections relative to foreign companies apply to all companies, partnerships, associations or individuals, whether incorporated or not, but the provisions of this Chapter do not apply to insurance upon goods or merchandise in transit.

(Note.—Sections 4065, 4068 and 4071, Revised Codes, 1907, were repealed by Act of February 13, 1909, House Bill No. 76, provisions of which follow.)

Section 42. [Section 1.]—**Examination by Commissioner—Expenses—By Whom Paid—Falsifying Books**—The Commissioner of Insurance shall examine and inquire into violations of insurance laws of this state, and for this purpose, or to see if the laws are obeyed, or to examine the financial condition, affairs and management of any insurance company, including surety companies, organized under the laws of this state, or any other state, or territory, or foreign country, he may visit, or cause to be visited by any competent person or persons he may appoint, the head office in this state or in the United States of any domestic or foreign insurance company applying for admission

to, or already admitted to do business in this state, and may for these purposes examine or investigate any company organized under the laws of Montana, and any agency of any company doing business in this state. The cost of such examinations shall be paid by the company examined, and shall include the reasonable expenses of the Commissioner, his deputies and assistants employed therein, whose services are paid for by the Insurance Department, and the compensation and reasonable expenses of his assistants employed therein whose services are not paid for by the department. Duplicate receipts showing the entire cost of the examination authorized by the Commissioner of Insurance shall be taken and certified to by the company examined, and shall be filed in and become a part of the public records of the Insurance Department. When insurance companies not admitted to do business in this state, or companies adjudged insolvent, or companies for any cause withdrawing from the state, neglect, fail or refuse to pay the charges for examination as approved by the Commissioner of Insurance, such charges shall be paid out of the expense account of the Commissioner of Insurance, in the same manner as other expenses of said office, or from any other such fund created to cover the expenses of the Insurance Department upon such approval; and the amount so paid shall be a first lien upon all the assets and property of such company, and may be recovered by suit by the Attorney General on behalf of the state of Montana, and restored to the said expense account, or other proper fund. The Commissioner may also examine companies on the request of five or more of the policy holders, representing at least \$100,000.00 insurance in force, who shall make affidavit of their belief, with specifications of their reasons therefor in writing, that such company is in an unsound or insolvent condition; provided, that only the United States branches of companies incorporated in foreign countries shall be examined by said Commissioner. For the purposes of the examinations, inquiries or investigations as aforesaid, the Commissioner of Insurance or his Deputy, or the person authorized to make them, shall have free access to all books and papers of an insurance company that relate to its business, and the books and papers

kept by an officer, agent or employee relating to, or upon which any record of its business is kept, and may summon witnesses and administer oaths or affirmations, in the examination of the directors, trustees, officers, agents or employes of any such company, and any other person in relation to its affairs, transactions and conditions. He may require and compel the production of records, books, papers, contracts or other documents by attachment, if necessary. Any person knowingly or wilfully testifying falsely in reference to any matter material to said investigation, examination or inquiry, shall be deemed guilty of perjury, and punished accordingly; and any person who shall wilfully refuse or fail to attend, answer or produce books or papers, or who shall refuse to give said Commissioner of Insurance, or the person authorized by him, full and truthful information and answer in writing to any inquiry or question made in writing by said Commissioner, or the person authorized by him, in regard to the business of insurance, or suretyship, carried on by such person, or other matters under investigation, or refuse or wilfully fail to appear and testify under oath before the Commissioner of Insurance or the person authorized by him, shall be deemed guilty of a misdemeanor. Any director, trustee, officer, agent or employee of an insurance company, or any other person, who shall knowingly or wilfully make any false certificate, entry or memorandum upon any of the books or papers of any insurance company, or upon any statement filed or offered to be filed in the insurance department of this state, or used in the course of any examination, inquiry or investigation with the intent to deceive the Commissioner of Insurance or any person employed or appointed by him to make such examination, inquiry or investigation, shall be deemed guilty of a misdemeanor.

Section 43. [Section 2.]—**Revocation of Certificate—Publication in Newspaper—Order to show cause—Appeal**—When the Commissioner of Insurance deems it to the interest of the public, he may publish the result of any examination or investigation in a newspaper of general circulation published at the state capital. If the Commissioner finds upon examination, hearing or other evidence, that any insurance company, includ-

ing surety companies, organized in this state or in any other state, territory or foreign country, is in an unsound condition, or has failed to comply with the law or with the provisions of its charter, or that its condition is, or its methods are, such as to render its operations hazardous to the public or to its policy holders, or that its actual assets, exclusive of its capital, are less than its liabilities, or if its officers or agents refuse to submit to examination or to perform any legal obligation relative thereto, or refuse on behalf of the company to pay the examination charges, he shall suspend or revoke all certificates of authority granted to said insurance company, and to its officers or agents, and shall cause notice thereof to be published in one or more daily newspapers of general circulation published at the state capital, and no new business shall thereafter be done by it or its agents in this state while such default or disability continues, nor until its authority to do business is restored. Before suspending or revoking the certificate of authority of any such company, the Commissioner shall, unless it is insolvent or its capital impaired, grant it fifteen days in which to show cause why such action should not be taken.

Any insurance company, including surety companies, organized under the laws of this state or any other state, territory or foreign country, whose certificate of authority has been suspended or revoked by the Commissioner, may, within fifteen days thereafter, appeal from said order to the District Court, which court, upon the filing of the proper petition, shall cause the record and orders of the Commissioner to be brought before it, and upon a hearing of the case by the Court de novo, the Court shall either confirm or revoke the order of the Commissioner, as the law and the fact of the case may warrant.

Section 44. [Section 3.]—**Designation of Officers of Insurance Department**—The word "COMMISSIONER" and the word "DEPUTY COMMISSIONER," as used in this Act, shall designate the State Auditor and Insurance Commissioner, Ex-Officio, and the Deputy Commissioner of Insurance, respectively. Wherever in the laws of Montana which are not repealed by this Act other titles are used to designate the chief officer and the second officer of the Insurance Department, such titles shall

be understood as meaning the Commissioner of Insurance and the Deputy Commissioner of Insurance, as hereinbefore specified.

Section 44 A. [Section 4.]**—Repealing Clause—**All Acts and parts of Acts in conflict with this Act, and particularly Sections 4065, 4068, 4071, 4128 and 4129 of the Revised Codes of Montana of 1907, are hereby repealed. (Approved February 13, 1909.)

Section 45. [4066 R. C.]**—Deficiency in Capital Stock to be made good—Liability of Directors—**Any corporation receiving such requisition from the State Auditor, must forthwith call upon its stockholders for such amounts as will make its paid up capital equal to the amount required by this Chapter or the charter or articles of incorporation of said corporation; and in case any stockholder shall refuse or neglect to pay the amount so called for, after notice personally given, or by advertisement in such time and manner as such Auditor shall approve, it is lawful for said corporation to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of said corporation may be found to bear to its original capital, the value of such shares for which the new certificates must be issued to be ascertained under the direction of the said Auditor, the corporation paying for the fractional part of shares; and it is lawful for the directors of such corporation to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the corporation; and in the event of additional losses accruing upon new risks taken upon the expiration of the period limited by the Auditor in the aforesaid requisition for the filling up of the deficiency in the capital of such corporation and before such deficiency has been made up the directors are individually liable to the extent thereof.

Section 46. [4067 R. C.]**—Deficiency in Assets of Mutual Companies—Liability of Directors—**If upon the examination it appears to the said Auditor that the assets of any corporation upon the plan of mutual insurance under this Chapter are in-

sufficient to justify the continuance of such corporation in business, it is his duty to proceed in relation to such corporation in the same manner as is herein required in regard to joint stock corporations, and the directors of such corporation are hereby made personally liable for any losses which may be sustained upon risks taken after the expiration of the time limited by the Auditor for filling up the deficiency in the capital and before such deficiency is made up. Any transfer of the stock of any corporation organized under this Chapter, made during the pending of any investigation herein required does not release the party making the transfer from his liability for losses which may have accrued previous to such transfer.

(Note.—Section 4068, Revised Codes of 1907, repealed by Act of February 13, 1909, referred to above.)

Section 47. [4069 R. C.]—**Deposits of Security for Policies**—Whenever the existing or future laws of any other State or Territory of the United States require of insurance corporations, incorporated by or organized under the laws of this State, having agencies in such other State or Territory, or of the agents thereof, any deposit of securities in such State or Territory, for the protection of policy holders or otherwise, or any payment for taxes, fines, penalties, certificates of authority, license fees or otherwise, greater than the amount required for such purposes from similar companies of other States or Territories by the existing laws of this State, then, and in every such case, all companies of such States or Territories establishing, or having heretofore established, any agency or agencies in this State, are required to make the same deposit for a like purpose with the Auditor of this State, and to pay said Auditor for taxes, fines, penalties, certificates of authority, license fees, or otherwise, an amount equal to the amount of such charges and payments imposed upon or required by the laws of such State or Territory of the companies of this State or the agents thereof.

Section 48. [4070 R. C.]—**Publication of Certificate**—It is the duty of every insurance corporation or company of the kind authorized to do and doing business in this State, organized under the laws of this State, or of any other State, Territory or country,

to publish once annually, in two newspapers of general circulation one of which is published at the capital of the State, and in case of corporations organized in the State, one of which is published in the county where the principal office is located, a certificate from the State Auditor that such company or corporation has in all respects complied with the laws of this State relating to insurance.

(Note.—Section 4071, Revised Codes of 1907, repealed by Act of February 13, 1909, referred to above.)

Section 49. [4072 R. C.]—**Auditor to furnish printed Forms**—It is the duty of the State Auditor to cause to be prepared and to furnish to each of the corporations organized under the laws of this State, and to attorneys or agents of companies incorporated by other States or Territories and foreign governments, who may apply for the same, printed forms of statement required by this Chapter, and he may, from time to time, make such changes in the form of these statements as are best adapted to elicit from the corporations or companies a true exhibit of their condition in respect to the several matters hereinbefore enumerated.

Section 50. [4073 R. C.]—**Taxation—Excess of Premiums—Liability of Agent**—Each and every insurance corporation or company transacting business in this State must be taxed upon the excess of premiums received over losses and ordinary expenses incurred within the State during the year previous to the year of listing in the county where the agent conducts the business, properly proportioned by the corporation or company at the same rate that all other personal property is taxed, and the agent shall render the list, and be personally liable for the tax; and if he refuse to render the list or to make affidavit that the same is correct to the best of his knowledge and belief, the amount may be assessed according to the best knowledge and discretion of the assessor. Insurance companies and corporations are subject to no other taxation under the laws of this State, except taxes on real estate and the fees imposed by law.

Section 51. [4074 R. C.]—**Stock Plan and Mutual Plan—Prohibition**—It is unlawful for any corporation organized upon the mutual plan to do business and take risks upon the stock plan,

or for a corporation organized as a stock corporation to do business upon the plan of mutual insurance.

Sections 52. [4075 R. C.]—**Mutual Benefit Companies not prohibited**—Nothing in this Chapter must be so construed as to prevent any number of persons, not exceeding two hundred, from making mutual pledges, and giving valid obligations to each other, for their own insurance from loss by fire or death; but such association of persons must in no case insure any property not owned and occupied by one of their number; and no life except that of one of their own number; nor are the provisions of this Chapter applicable to such associations or companies. But such associations or companies must not pay any salaries or compensation to officers agents, or other employes, or receive premiums, or make dividends.

DIVISION III.

LIFE INSURANCE COMPANIES.

(Other than Assessment.)

Chapter V.

(Div. I., Part IV. Title III, Revised Codes 1907.)

- Section 4113. Incorporation.
- Section 4114. Stock companies—capital required.
- Section 4115. Mutual companies—conditions.
- Section 4116. Stock or premium notes.
- Section 4117. Deposit of securities—valuation of policies.
- Section 4118. Foreign companies—requirements.
- Section 4119. Interest collected.
- Section 4120. Return of deposit.
- Section 4121. Service of process.
- Section 4122. Publication of Auditor's certificate.
- Section 4123. Vouchers for expenditures—domestic companies.
- Section 4124. Investments—domestic corporations.
- Section 4125. Real estate holdings permitted—domestic companies.
- Section 4126. Bonds of officers—mutual companies—domestic companies.
- Section 4127. Increase of capital stock.
- Section 4130. Annual statements—requirements.
- Section 4131. Renewal of certificate.
- Section 4132. Blanks—annual statements.
- Section 4133. Certificate of authority.
- Section 4134. Foreign companies not required to comply with general corporation laws other than herein provided.
- Section 4135. Foreign companies allowed six months from passage of this act to comply with provisions thereof.
- Section 4136. Mutual life insurance companies must make annual accounting of surplus.
- Section 4137. Contingency Reserve.
- Section 4138. Manner of apportionment to be selected by policy holders.

Section 4139. Default in payment of premiums.

Section 4140. Performance of this act not waived by contract.

Section 4144. Fraternal or secret societies not affected by this act.

Section 4145. Contributions for political purposes prohibited.

Section 53. [4113 R. C.]—**Incorporation—Requisites—Duty of Auditor—Subscription Books**—Every life insurance company, except those organized upon the assessment plan and fraternal beneficiary association, created under the laws of this or any other state or country, shall, before issuing policies in this State, comply with the provisions of this Act applicable to such companies. When any number of persons associate themselves together for the purpose of forming a life insurance corporation as provided for in this Act, they shall publish a notice of such intention once a week for four consecutive weeks in some public newspaper in the county in which such insurance corporation is proposed to be located, and they shall also make articles of incorporation, as provided in Section 3818, of the Civil Code as amended, and forward to the State Auditor, who shall submit the same to the Attorney General for examination, and if it shall be found by the Attorney General to be in accordance with the provisions of this Act and not in conflict with the Constitution and the laws of the United States and this State, he shall make a certificate of the facts and return it to the State Auditor. The State Auditor shall reject the name or title applied for by any person, company or corporation when he shall deem the same so similar to any one already appropriated by any other company or corporation as to be likely to be misleading to the public. When the articles of incorporations shall have received the approval of the State Auditor, such articles, with such approval, must be filed, recorded and certified as required by Section 3825 of the Civil Code; provided that the articles of incorporation as filed with the Secretary of State shall be in duplicate, one copy of which shall be certified by him to the State Auditor, the expense of such certification to be borne by the insurance company. Having published the notice, and filed the publisher's affidavit of the publication thereof with the State Auditor, together with the articles of incorporation, the persons named in the articles of incorporation, or a majority of them, shall open books for the subscription of stock to the

corporation at such times and places as to them may seem convenient and proper, and shall keep the same open until the full amount specified in the articles of incorporation is subscribed; or in case the business of such corporation is proposed to be conducted on the plan of mutual insurance, then they shall open books and receive propositions and enter into agreements in the manner and to the extent specified in this Act. (Act approved March 8, 1907.)

Section 54. [4114 R. C.]—**Stock Companies—Minimum Capital—Exchange of Securities**—Stock companies organized under the laws of this State shall have not less than One Hundred Thousand Dollars of capital subscribed, fifty per cent of which shall be paid up and invested in bonds of the United States or this State, or in bonds or mortgages upon unincumbered real estate in this State, worth, exclusive of improvements, at least double the sum loaned thereon, which security shall be deposited with the State Auditor, and upon such deposit and evidence by affidavit or otherwise satisfactory to the Auditor that the capital is all subscribed in good faith, and that the company is the actual and unqualified owner of the securities representing the paid up capital; he shall issue to such company the certificate hereinafter provided for, but no part of the fifty per cent aforesaid shall be loaned to any stockholder or officer of the company. The remainder of such capital shall be paid within such time as the directors or trustees of the company may order, or as the State Auditor may direct, but not later than two years from date of issuance of Auditor's Certificate, and until paid it shall be secured by the notes of the stockholders of the company. Provided, further, that the additional fifty per cent of the capital stock may also be deposited with the State Auditor under the same conditions as the original fifty per cent, or any additional amount which is necessary for the purpose of complying with the laws of any other state to enable said company to do business in such state, and the company making such deposit shall be entitled to the income thereof and may, from time to time, with the consent of the State Auditor, when not forbidden by the law under which the deposit is made, change in whole or

in part the securities which compose the deposit for other competent securities of equal par value. (Act approved March 8, 1907.)

Section 55. [4115 R. C.]—**Mutual Companies—Minimum Number of Applications**—Life insurance companies organized under the laws of this State upon the mutual plan shall, before issuing any policies, have actual applications on at least two hundred and fifty lives for an average amount of at least One Thousand Dollars each, a list of which, giving the name, age, residence, amount of insurance and annual premium of each applicant, shall be filed with the State Auditor, accompanied by the certificate, under oath, of the president, secretary, and a majority of the board of directors of such company, that the whole amount of the annual premium has been paid for in cash at adequate rates. (Act approved March 8, 1907.)

Section 56. [4116 R. C.]—**Capital Stock—Notes—Condition for Acceptance**—No note shall be accepted as part of the capital of a stock company, unless accompanied by a certificate of the clerk of the district court, or other court of record, of the county in which the person executing it resides, to the effect that the person making it is in his opinion pecuniarily good and responsible therefor in property not exempt from execution. (Act approved March 8, 1907.)

Section 57. [4117 R. C.]—**Deposit of Securities—Valuation of Policies—Duty of Auditor—Exchange of Securities**—As soon as practicable after the filing of annual statement, the Auditor shall ascertain the net cash value of every policy in force upon the basis of the American Table of Mortality and four and one-half per cent interest, or actuaries' combined experience table of mortality and four per cent interest, in all companies organized under the laws of this State. For the purpose of making such valuation he may employ a competent actuary, who shall be paid by the company for which the service is rendered; but the company may make such valuation and it shall be received by the Auditor upon satisfactory proof of its correctness. The net cash value of all policies in force in any such company being ascertained, the Auditor shall notify it of the amount, and

within thirty days thereafter the officers thereof shall deposit with the Auditor the amount of the ascertained valuation in the securities specified in this Act. No stock company organized under the laws of this State shall be required to make such deposit until the cash value of the policies is in force, as ascertained by the Auditor, exceeds the amount deposited by it as capital. Provided, that Mutual Companies, upon their organization, shall deposit with the State Auditor at least one-half of the first annual premium in securities as provided for in this Act. Provided, further, that all the companies provided for in this Act shall have the right at any time to change the securities on deposit by substituting a like amount of the character required in the first instance. If the annual valuation of the policies in force shows them to be less than the amount of security deposited, then the company, in the case of a stock company, may withdraw such excess but at any time cannot be less than Twenty-five Thousand Dollars on deposit. (Act approved March 8, 1907.)

Section 58. [4118 R. C.]—**Foreign Companies—Capital or Surplus—Investments—Certificate**—No company incorporated by or organized under the laws of any other state or government shall transact business in this State unless it is possessed of the actual amount of capital required of any company organized by the laws of this State, or, if it be a mutual company, of surplus equal to the amount required of capital stock companies, and the same is invested in bonds of the United States or of this State, or in interest paying bonds, when they are at or above par, of the state in which the company is located, or of some other state, or in notes or bonds secured by mortgages on unincumbered real estate within this or the state where such company is located worth double the amount loaned thereon, which securities, shall, at the time, be on deposit with the superintendent of insurance, auditor, controller or chief financial officer of the state by whose laws the company is incorporated, or of some other state, and the Auditor of this State is furnished with a certificate of such officer, under his official seal, that he, as such officer, holds in trust and on deposit for the benefit of all the policy holders of such company the securities above

mentioned. This certificate shall embrace the items of security so held, and show that such officer is satisfied that such securities are worth One Hundred Thousand Dollars. Nothing herein contained shall invalidate the agency of any company incorporated in another State by reason of its having exchanged the bonds or securities so deposited with such officer for other bonds or securities authorized by this Act, or by reason of its having drawn its interest and dividends on the same. (Act approved March 8, 1907.)

Section 59. [4119 R. C.]—**Securities deposited—Collection of Interest**—Companies having on deposit with the State Auditor bonds or other securities may collect the dividends or interest thereon, delivering to their authorized agents the coupons or other evidence of interest as the same becomes due, but if any company fails to deposit additional security when and so called for by the Auditor, and as provided for in this Act, or pending any proceedings to close up or enjoin it, the Auditor shall collect such dividends or interest and add the same to such securities. (Act approved March 8, 1907.)

Section 60. [4120 R. C.]—**Return of Deposit—When**—Upon request of any domestic insurance company the State Auditor may return to such company the whole or any portion of the securities of such company held by him on deposit, when he shall be satisfied that the securities so asked to be returned are subject to no liability and not required to be longer held by any provision of law or purpose of the original deposit. And he may return to the trustees or other representative authorized for that purpose of a foreign insurance company any deposit made by such company when it shall appear that such company has ceased to do business in this State or in the United States, and that such company is not subject to any liability in this State for whose benefit such deposit was made. (Act approved March 8, 1907.)

Section 61. [4121 R. C.]—**Service of Process—Designation of Agent—Duty of Auditor**—Every life insurance company or organization organized under the laws of another state or country shall, before receiving a certificate to do business in this State, or any renewal thereof, file in the office of the State Auditor a

power of attorney executed by the president and secretary of the company, or such other qualified officer authorized to sign such instrument, appointing a citizen of this State, resident within this State, the agent or attorney for the company, upon whom process of law can be served, and such power of attorney shall stipulate and agree, on the part of the company making the same, that any lawful process against said company which is served on such agent shall be of the same legal force and validity as if served on such company or association within this State; and also, that in case of death or absence of the attorney so appointed service of process may be made on the State Auditor of this state, or his successors in office, with the same power and effect as if served upon such agent; and such power of attorney cannot be revoked or modified (except that a new one may be substituted), so long as any policy or liability remains outstanding against such company in this state. The term "process," used above, shall be held and deemed to include any writ, summons or order whereby any action, suit or proceedings shall be commenced, or which shall be issued in or upon any action, suit or proceedings, by any court, officer or magistrate. If such notice or process be served upon the State Auditor, as above provided, he shall immediately, upon its receipt acknowledge service thereon on behalf of the defendant insurance company by writing thereon, giving the date thereof, and shall immediately return such notice or process in a registered letter to the clerk of the court in which the suit is pending, addressed to him by his official title, and shall also forthwith mail such copy with a copy of his acknowledgment of service written thereon in a registered letter addressed to the person or corporation who shall be named or designated in such notice or process. A record of such action shall be kept by the State Auditor in a book prepared for that purpose. (Act approved March 8, 1907.)

Section 62 [4122 R. C.]—**Publication of Auditor's Certificate**—Every insurance company of the character provided for in this Act, doing business in the state, organized under the laws of this or any other state or country, shall publish annually, before the first day in May, in two newspapers of general circula-

tion, to be approved by the State Auditor, one of which shall be published at the capital city and, in case of companies organized in the state, one in the county where the principal office is located, a certificate from the Auditor that such company has in all respects complied with the law of the state relating to insurance, and an affidavit of such publication made by the publisher or foreman of such newspaper shall be filed in the office of the Auditor within thirty days from the date of such publication. Such certificate shall also contain a statement made up from the annual report of said company of the actual amount of paid up capital, the aggregate amount of assets and liabilities at the date of such report, together with the aggregate income and expenditures of such company for the preceding year, as shown by said report. (Act approved March 8, 1907.)

Section 63. [4123 R. C.]—**Vouchers for Expenditures**—No life insurance company organized in this state shall make any disbursement of One Hundred Dollars or more unless the same be evidenced by a voucher signed by or on behalf of the person, firm or corporation receiving the money and correctly describing the consideration for the payment. If the expenditure be for both services and disbursements the voucher shall set forth the services rendered and an itemized statement of the disbursements made. If the expenditure be in connection with any matter pending before any legislative or public body, or before any department or officer of any state or government, the voucher shall correctly describe, in addition, the nature of the matter and of the interest of such company therein. When such voucher cannot be obtained the expenditure shall be evidenced by an affidavit describing the character and object of the expenditure and stating the reason for not obtaining such voucher. (Act approved March 8, 1907.)

Section 64. [4124 R. C.]—**Investments**—No life insurance company organized or incorporated under the laws of this state shall invest in or loan upon any shares of stock of any corporation, other than a municipal corporation; nor, excepting government, state or municipal securities, shall it invest in, or loan upon, any bonds or obligations not secured by adequate collateral security and when more than one-third of the total value of the

collateral security shall consist of shares of stock, it shall be deemed inadequate. No investment or loan, except policy loans, shall be made by any such life insurance company, unless the same shall first have been authorized by the board of directors, or by a committee thereof charged with the duty of supervising such investment or loan. No such company shall subscribe to or participate in any underwriting of the purchase or sale of securities or property, or enter into any transaction for such purchase or sale on account of said company jointly with any other person, firm or corporation; nor shall any such company enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be at all times within the control of its board of directors. Any such company, in addition to other investments allowed by law, may invest any of its funds and accumulations in the bonds of the United States or of this state or of any county, city, town or village, or duly organized school district therein, or of any municipality or civil division of any state and may loan upon improved unincumbered real property in any state fifty per cent. of the value of such property, or invest in the mortgage bonds of any dividend paying railway or street railway company duly incorporated and organized under the authority of this state or any other state and it may also make loans on the security of promissory notes amply secured by pledge of any bonds in which such insurance companies are hereby authorized to invest their funds, and may also make loans upon the security of its own policies, but no loan on any policy shall exceed the reserve value thereof. (Act approved March 8, 1907.)

Section 65. [4125 R. C.]—**Real Estate Holdings Permitted**—Every such life insurance company organized in this state may acquire, hold and convey real property only for the following purposes and in the following manner:

1st. Such as shall be requisite for convenient accommodations in the transaction of its business.

2nd. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for moneys due.

3rd. Such as shall have been conveyed to it in satisfaction

of debts previously contracted in the course of its dealings.

4th. Such as shall have been purchased at sales on judgments, decrees or mortgages obtained or made for such debts.

All such real property specified in Subdivisions 2, 3, and 4 of this section, which shall not be necessary for its accomodation in the convenient transaction of its business, shall be sold and disposed of within two years after the company shall have acquired title to the same, or within two years after the same shall have ceased to be necessary for the accommodation of its business, and it shall not hold such property for a longer period unless it shall procure a certificate from the State Auditor that its interests will suffer materially by the forced sale thereof, in which event the time for the sale may be extended to such time as the State Auditor shall direct in such certificate. (Act approved March 8, 1907.)

Section 66. [4126 R. C.]—**Bonds of Officers—Mutual Companies**—The president and secretary of every mutual insurance company or association organized in this state under the provisions of this Act, shall be required to file with the State Auditor a bond each in the amount of Ten Thousand Dollars for the faithful performance of their duties as the respective officers of such company or association. (Act approved March 8, 1907.)

Section 67. [4127 R. C.]—**Increase of Capital Stock**—If the capital stock of any insurance company or association organized in this state and provided for in this Act shall be increased a certificate showing such increase shall be filed with the State Auditor, who shall make or cause to be made, an examination of the securities composing such capital stock thus increased, and if satisfied therewith, such Auditor shall thereupon deliver to such corporation a certified copy of such examination with his written permission to do business upon such increased capital, a copy of which certificate and permission shall be filed in the office of the Secretary of State, and of the county clerk of the county where the principal place of business of said corporation is located. (Act approved March 8, 1907.)

(Note.—Sections 4128 and 4129, Revised Codes, 1907, repealed by act approved February 13, 1909—House Bill No. 76.)

Section 68. [4130 R. C.]—**Annual Statements—Form**—It shall be the duty of the president, or the vice-president and secretary of each corporation organized under this Act, annually on the first day of January of each year, or within sixty days thereafter, to prepare under oath and deposit in the office of the State Auditor, a full, true and complete statement of the condition of such company on the 31st day of December preceding the filing of such statement which statement shall exhibit the following items and facts in the following forms, viz:

Name and Capital.

The name of the company and where located.

The names of officers.

The amount of capital stock.

The amount of capital stock paid in.

Assets.

The value of real estate owned by such company.

The amount of cash on hand.

The amount of cash deposited in bank, giving name of bank or banks.

The amount of cash in the hands of agents and in the course of transmission.

The amount of bank stocks with the name of the bank giving par and market value of the same.

The amount of stocks and bonds of the United States, and all other bonds, giving names and amounts, with the par and market value of each kind.

The amount of loans secured by first mortgage on real estate.

The amount of all other bonds and loans, and how secured with the rate of interest.

The amount of premium notes on policies in force.

The amount of notes given for unpaid stock, and how secured.

The amount of assessments unpaid on stock or premium notes.

The amount of interest due and unpaid.

All other securities.

Liabilities.

The amount of losses due and unpaid.

The amount of losses adjusted but not due.

The amount of losses unadjusted.

The amount of claims for losses resisted.

The amount of money or evidence of investment borrowed.

The amount of dividends unpaid.

The amount required to safely reinsure all outstanding risks.

All other claims against the company.

Income During the Year.

The amount of net cash premiums received.

The amount of premium notes received.

The amount of interest received from all sources.

The amount received from all other sources.

Expenditures During the Year.

The amount paid for losses.

The amount of dividends paid to policy holders and amount to stockholders.

The amount of commissions and salaries paid to agents.

The amount paid to officers for salaries and other perquisites.

The amount paid for taxes.

The amount of all other payments and expenditures.

Miscellaneous.

The greatest amount insured on any one life.

The amount deposited in other states or territories as security for policy holders therein, stating the amount in each state and territory.

The amount of premiums received in the state during the year.

The amount paid for losses in this state during the year.

The whole number of policies issued during the year, with the amount of insurance affected thereby and total amount of risk.

All other items of information necessary to enable the Auditor to correctly estimate the cash value of policies, or to judge of the correctness of the valuation thereof.

The State Auditor is authorized to amend the form of annual statement, and to propose such additional inquiries as he may think necessary to elicit a full exhibit of the standing of companies doing business in this state.

Section 69. [4131 R. C.]—**Renewal of Certificates—When—**The statements and evidences of investments required of foreign companies, as above, shall be renewed annually in such manner and form as required by this Act, and as said Auditor may direct, with any additional statement of the amount of the losses incurred and premiums received in this state, during the preceding year, so long as such agency continues; and the said Auditor, on being satisfied that the capital, securities and investments remain secure, as heretofore provided, shall furnish a renewal of his certificate. (Act approved March 8, 1907.)

Section 70. [4132 R. C.]—**Annual Statement Blanks—Duty of Auditor—**It shall be the duty of the State Auditor to cause to be prepared and to furnish to each of the corporations organized under the provisions of this Act, and to attorneys or agents of companies incorporated by other states or territories and foreign governments, who may apply for the same, printed forms of statement required by this Act, and he may, from time to time, make such changes in the form of these statements as are best adapted to elicit from the corporations or companies a true exhibit of their condition in respect to the several matters hereinbefore enumerated. (Act approved March 8, 1907.)

Section 71. [4133 R. C.]—**Certificate of Authority—Renewal—Duty of Auditor—**Upon compliance with the provisions of this Act and the payment of the fees and taxes as provided by law, the State Auditor shall issue a certificate to any company organized or admitted under the provisions of this Act, which certificate shall be its authority to commence business and issue policies in this state, and which certificate shall be renewed annually as provided for in the preceding sections of this Act. Such certificate shall expire annually on the 31st day of December. (Act approved March 8, 1907.)

Section 72. [4134 R. C.]—**To what Companies this Act Applicable—**The provisions of the Act of the Seventh Legislative Assembly, approved March 9, 1901, and relating to the conditions upon which foreign corporations may do business in this State, known as Senate Bill No. 46, shall not apply to foreign insurance companies that comply with the provisions of this Act.

Section 73. [4135 R. C.]—**Existing Companies to comply with this Law**—Every company organized under the laws of another state which has been admitted and is authorized to transact business in this state, shall, under the provisions of this Act within six months after the passage and approval of the same, comply with the provisions contained therein. (Act approved March 8, 1907.)

Section 74. [4136 R. C.]—**Mutual Companies—Annual Apportionment of Surplus**—Every life insurance company doing business in this state conducted on the mutual plan, or in which policy-holders are entitled to share in the profits or surplus, shall make an annual apportionment and accounting of divisible surplus to each policy-holder beginning not later than the end of the third policy year on all participating policies hereafter issued; and each such policy-holder shall be entitled to and be credited with or paid, in the manner hereinafter provided, such a portion of the entire divisible surplus as has been contributed thereto by his policy. (Act approved March 4, 1907.)

Section 75. [4137 R. C.]—**Contingency Reserve—Duty of Auditor**—Any life insurance company doing business in this state may accumulate and maintain in addition to the capital and surplus contributed by its stockholders and in addition to an amount equal to the net values of, its policies, computed according to the laws of the jurisdiction under which it is organized, a contingency reserve not exceeding the following respective percentages of said net values, to-wit:—When said net values are less than one hundred thousand dollars, twenty per centum thereof, or the sum of ten thousand dollars, whichever is the greater; when said net values are greater than one hundred thousand dollars, the percentage thereof measuring the contingency reserve shall decrease one-half of one per centum for each one hundred thousand dollars of said net values up to one million dollars; one-half of one per centum for each additional one million dollars up to ten million dollars; one-half of one per centum for each additional two million five hundred thousand dollars up to twenty million dollars; one-half of one per centum for each additional five million dollars up to fifty million dollars; one-half of one per centum for each additional

twenty-five million dollars up to seventy-five million dollars; and if said net values equal or exceed the last mentioned amount, the contingency reserve shall not exceed five per centum thereof; provided that as the net values of said policies increase and the maximum percentage measuring the contingency reserve decreases such corporation may maintain the contingency reserve already accumulated hereunder, although for the time being it may exceed the maximum percentage herein prescribed, but may not add to the contingency reserve when addition will bring it beyond the maximum percentage. Provided further that for cause shown the State Auditor may at any time and from time to time permit any corporation to accumulate and maintain a contingency reserve in excess of the limit above mentioned for a prescribed period, not exceeding one year under any one permission, by filing in his office a decision stating his reasons therefor and causing the same to be published in his next annual report. This section shall not apply to any company doing exclusively a non-participating business. (Act approved March 4, 1907.)

Section 76. [4138 R. C.]—Apportionment of Surplus—Right of Policy Holder—Every policy holder shall on all participating policies hereafter issued, be permitted annually to select the manner and method of the application of the surplus to be annually apportioned to his policy from among those set forth in the policy.

All apportioned surplus not actually paid over to the insured, or applied in the reduction of current or future premiums or in the purchase of paid-up insurance or pure endowment additions, shall be credited to the insured and carried as an actual liability and be paid at the maturity of the policy. (Act approved March 4, 1907.)

Section 77. [4139 R. C.]—Default in Payment of Premiums—Right of Policy Holder—In event of default in payment of any premium due on any policy, provided not less than three full years premiums shall have been paid, there shall be secured to the insured without action on his part, either paid up or extended insurance as specified in the policy, the net value of which shall be at least equal to the entire net reserve held by

the company on such policy less two and one-half per centum of the amount insured by the policy and dividend additions, if any, and less any outstanding indebtedness to the company on the policy at time of default. There shall be secured to the insured the right to surrender the policy to the company at its home office within one month after date of default for the cash value otherwise available for the purchase of the paid-up or extended insurance as aforesaid. (Act approved March 4, 1907.)

Section 78. [4140 R. C.]—**Agreement—Waiving of Provisions of Act not permitted**—No agreement between the company and the policy-holder or applicant for insurance shall be held to waive any of the provisions of this act. (Act approved March 4, 1907.)

(Note.—Sections 4141, 4142 and 4143, Revised Codes of 1907, were repealed by act approved February 13, 1909—Senate Bill 47, which act follows below.)

Section 78 A. [4144 R. C.]—**Fraternal or secret societies not affected by this Act**—Nothing in this act shall be construed as affecting fraternal associations or secret societies, which may insure the lives of their members only. (Act approved March 4, 1907.)

Section 78 B. [4145 R. C.]—**Life Insurance Companies prohibited from contributing Funds for Political Purposes**—No insurance company or association including fraternal beneficiary associations, doing business in this state, shall, directly or indirectly, pay or use or offer, consent or agree to pay or use any money or property for or in aid of any political party, committee or organization, or for or in aid of any corporation, joint stock or other association organized or maintained for political purposes, or for or in aid of any candidate for political office, or for nomination for such office, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used. Any officer, director, stockholder, attorney or agent of any corporation or association which violates any of the provisions of this Act, who participates in, aids, abets, or advises or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this Act, shall be guilty of a misdemeanor

and be punished by imprisonment for not more than one year and a fine of not more than one thousand dollars, and any officer aiding or abetting in any contribution made in violation of this Act, shall be liable to the company or association for the amounts so contributed. No person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial, for a violation of any of the provisions of this Act, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him; but no persons shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceeding. (Act approved March 4, 1907.)

SENATE BILL NO. 47.

(Act approved February 13, 1909)

An Act Entitled, An Act Prohibiting Rebating and Discrimination by Life Insurance Companies and Providing Penalties Therefor, and Prohibiting the issuance of Special or Advisory Board Contracts and Prohibiting Certain Other Practices, and Providing Penalties Therefor, and Repealing Sections 4141, 4142 and 4143 of the Revised Codes of the State of Montana of 1907.

Section 79. [Section 1.]—**Discrimination and Rebates prohibited—Misdemeanor—Revocation of Certificate**—No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between insurants (the insured) of the same class and equal expectation of life in the amount of payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes. Nor shall any such company or agent thereof make any contract of in-

insurance or agreement as to such contract other than as plainly expressed in the policy issued thereon; nor shall any such company or any officer, agent, solicitor or representative thereof pay, allow or give or offer to pay, allow or give, directly or indirectly, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any paid employment or contract for services of any kind or any valuable consideration or inducement whatever not specified in the policy contract of insurance; nor give, sell or purchase or offer to give, sell or purchase, as inducement to insurance or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits to accrue thereon, or anything of value whatever not specified in the policy. Every officer or agent of an insurance company doing business in this state, who shall violate any of the provisions of this section, shall be deemed guilty of a misdemeanor. It shall be the duty of the Commissioner of Insurance upon being satisfied that any such insurance company, or any agent thereof has violated any of the provisions of this section, to revoke the certificate of authority of the company or agent so offending.

Section 80. [Section 2.]**—Special Inducements prohibited—Revocation of Certificate—**From and after the date this Act takes effect no life insurance company shall issue in this state, nor permit its agents, officers or employees to issue in this state, agency company stock or other stock or securities, or any special or advisory board or other contract of any kind promising returns and profits as an inducement to insurance; and on and after July 1, 1909, no life insurance company shall be authorized to do business in this state, which issues or permits its agents, officers or employees to issue in the state of Montana, or in other state or territory, agency company stock or other stock or securities, or any special or advisory board or other contract of any kind promising returns and profits as an inducement to insurance, and no corporation or stock company, acting as agent of a life insurance company, nor any of its agents, officers or employees, shall be permitted to agree, sell, offer to sell or give,

or offer to give, directly or indirectly, in any manner whatsoever, any share of stock, securities, bonds or agreement of any form or nature, promising returns and profits as an inducement to insurance, or in connection therewith; Provided, that nothing herein contained shall impair or affect in any manner any such contracts issued or made as an inducement to insurance prior to the enactment hereof, or prevent the payment of the dividends or returns therein stipulated to be paid. It shall be the duty of the Commissioner upon being satisfied that any such insurance company, or any agent thereof, has violated any of the provisions of this section, to revoke the certificate of authority of the company or agent so offending.

Section 81. [Section 3.]—**Repealing Clause**—All Acts and parts of Acts in conflict with this Act, particularly Sections 4141, 4142 and 4143 of the Revised Codes of the State of Montana of 1907, are hereby repealed. (Act approved February 13, 1909.)

Section 82. [Section 1.]—**Misrepresentations as to Terms of Policy—Prohibited**—No life insurance company doing business in this state and no officer, director or agent thereof shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. (Act approved February 25, 1907, House Bill 132.)

Section 83. [Section 2.]—**Violation of Act—Misdemeanor**—Every officer or agent of any such corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor. (Act approved February 25, 1907.)

Section 84. [Section 3.]—**Punishment for Violation—Fines, to whom payable**—Every corporation or officer or agent thereof which shall violate any of the provisions of this act shall be fined in any sum not exceeding five hundred dollars to be recovered by any action in the name of the state, and on collection to be paid into the county treasury for the benefit of the common school fund. (Act approved February 25, 1907.)

Section 85. [Section 1.]—**Solicitor—Agent of Company, not of Assured**—Any person who shall solicit an application for insurance upon the life of another shall, in any controversy between the assured or his beneficiary and the company issuing any policy upon such application, be regarded as the agent of the company and not the agent of the assured. (Act approved February 25, 1907, House Bill 123.)

Section 86. [Section 1.]—**Policy must contain Entire contract**—Every policy of insurance issued or delivered within this state on or after the first day of January, Nineteen Hundred and Eight by any life insurance corporation doing business within the State shall contain the entire contract between the parties. (Act approved February 26, 1907, House Bill 213.)

HOUSE BILL NO. 148.

“An Act concerning the Duration and Renewal of Life Insurance Corporations and the Number of Directors thereof.”

Be it enacted by the Legislative Assembly of the State of Montana:

Section 87. [Section 1.]—**Duration and Renewal of Life of Corporations**—That corporations organized in this State for the transaction of the business of life insurance may be formed to endure fifty years; but they may be renewed from time to time for the same or shorter periods, within three months before or after the time for the termination thereof, if a majority of the votes cast at any regular election, or special election called for that purpose, be in favor of such renewal, and if those wishing such renewal shall purchase the stock of those opposed thereto at its real value.

Section 88. [Section 2.]—**By-Laws—Number of Directors**—That the by-laws of corporations organized in this State for the transaction of the business of Life Insurance shall fix the number of trustees or directors thereof, but the same shall not be less than three and a majority thereof shall be residents of this State. (Approved March 3, 1909.)

DIVISION IV.

Assessment Life Insurance Companies

[Div. I, Part IV, Title III, Revised Codes of 1907.]

CHAPTER VI.

- Section 4146. Incorporation.
- Section 4147. Articles of incorporation.
- Section 4148. Auditor's certificate and articles to be filed and recorded.
- Section 4149. Directors.
- Section 4150. Assessment notice.
- Section 4151. How surplus funds invested.
- Section 4152. Statement to Auditor.
- Section 4153. Auditor may employ experts.
- Section 4154. Auditor to examine into financial condition.
- Section 4155. Action instituted for non-compliance.
- Section 4156. License to foreign corporations.
- Section 4157. Duty of Auditor.

Section 89. [4146 R. C.]—**Incorporation—Guaranty Fund—Amount**—Corporations for the purpose of furnishing life indemnity or pecuniary benefits to the widows, orphans, heirs or relatives by consanguinity or affinity, devisees or legatees of deceased members, or accident or permanent disability indemnity to members thereof, where the funds for the payment of such benefits are secured in whole or in part by assessment upon the surviving members, may be organized or do business in the State of Montana, subject to the conditions hereinafter provided. Such corporation must show by a sworn statement a guarantee fund of not less than twenty thousand dollars for the benefit and security of the policy holders or those holding certificates of life indemnity.

Section 90. [4147 R. C.]—**Articles of Incorporation—Contents—Duty of Auditor**—Any three or more persons, citizens of the United States, a majority of whom are residents of this state, may associate themselves together as a body corporate, for which purpose they must make, sign and acknowledge before any officer authorized to take acknowledgement of deeds in this State, articles of incorporation, in which must be stated the name or title by which such corporation, association or society shall be known by law, the location of its principal business office, which office must be located in this State, the name and residence of the incorporators, the object of the corporation, with its plan of doing business, clearly and fully defined, the number of its directors, and the names of those elected to serve

until its first annual meeting, the limits as to age of applicants for membership, which must be between the ages of sixteen and sixty-five, and that strict medical examinations are required, and that bona fide applications have been secured for at least five hundred thousand dollars by not less than two hundred persons, and two per cent, on such insurance, together with said guarantee fund of twenty thousand dollars, has been paid into the treasury and deposited in trust for the benefit of the beneficiaries of such corporation, which articles of incorporation must be submitted to the State Auditor, who must examine the same, and, if he finds that the object and purposes are fully and definitely set forth within the provisions of this Chapter, and that the name or title is not the same as that of some other corporation already organized under the laws of this State, or does not so closely resemble a title or name in use as to have a tendency to mislead the public, must approve the same. If for either of the aforesaid or other good and sufficient reasons the said Auditor shall be unwilling to approve the articles of incorporation, he must immediately inform the incorporators of the fact, stating his objections fully in writing. If the articles are sufficient and satisfactory, the Auditor must indicate his approval thereof under his hand and official seal.

Section 91. [4148 R. C.]—**Articles and Certificate—Filing and Recording**—When the articles of incorporation have received the approval of the State Auditor, such articles, with the approval, must be filed, recorded and certified as required by Section 3825 of this Code.

Section 92. [4149 R. C.]—**Management—Directors—Election**—The affairs of all corporations organized or doing business under the provisions of this Chapter, must be managed by not less than three directors, a majority of whom must be residents of this State who must be elected from and by the members at such time and place, and for such period, not exceeding three years, as may be provided for in the by-laws, and may be eligible for re-election; but as near as practicable, an equal number must be elected each year.

Section 93. [4150 R. C.]—**Assessment Notices—Contents—Application of Funds**—Assessment notices sent to members by

any corporation doing business under the provisions of this Chapter, must state the object or objects for which the money to be collected is intended; and no part of the funds collected for the payment of death benefits must be applied for any other purpose.

Section 94. [4151 R. C.]—**Surplus Funds—How Invested—How to be used**—Any corporation transacting business under the provisions of this Chapter, may provide in its by-laws for the accumulation of a surplus general or guarantee fund, which may be invested only in its corporate name in the United States, State, Territorial or other first-class convertible bonds or stocks upon which interest has not been in default. Such fund when so set apart and so invested, with the increase thereof, belongs to such corporation, and not to the directors or officers thereof; and must be used only for mortuary benefits without assessment, or applied in payment of future assessments, or otherwise used for the promotion of the object or objects for which such fund is specially provided and set apart, and such use shall not be deemed or continued to mean a profit received by members within the meaning of the statutes of this State.

Section 95. [4152 R. C.]—**Annual Statement—Filing Fee—Associations excepted**—Corporations organized under the provisions of this Chapter, or that have heretofore been organized within the State or Territory of Montana for the purpose of furnishing life, accident, or permanent disability, indemnity or mortuary benefit on the assessment plan, in accordance with the provisions of Section 4146 of this Chapter, are not insurance corporations and are not subject to the laws of this State relating thereto but must comply with and conform to all the requirements and provisions of this Chapter and must, by their president and secretary, or like officers, make to the State Auditor annually, on or before the first day of December, a statement, under oath, for the preceding year upon blanks furnished by the State Auditor, which statement must show their financial condition, assets, liabilities, total amount of indemnity in force, number of members, number whose membership has terminated during the year, and cause thereof, total receipts and sources thereof, total expenditures and objects thereof, and

the average amount paid on each certificate, and must pay into the treasury of the State, upon filing said certificate, a fee of twenty-five dollars, and the said Auditor must publish said statement in his annual report. But nothing herein contained applies to any organization of a purely social, religious or benevolent character, where no commissions are paid, and no salaried officers or agents are employed; or to any local association or society organized under, or subject to, the control of a grand or supreme body; or to any secret organizations, having subordinate lodges or councils, which have been organized under the laws of this State or any other State or Territory, and which are now permitted to do business in this State.

Section 96. [4153 R. C.]—**Examination of Books—Auditor may employ Expert—Expense, who to pay**—The State Auditor has authority to appoint an expert to verify the statements aforesaid by examination of the books and papers of the corporation, and make such other examination as he may deem necessary. The expense of such examination must be paid by the corporation having its books examined, and must not exceed the necessary traveling and hotel expenses of said expert, and reasonable compensation of said expert while engaged in such examination.

Section 97. [4154 R. C.]—**Examination of Financial Condition—Duty of Auditor**—The State Auditor must, at the request of any corporation doing business under the provisions of this Chapter in this State on the assessment plan, make an examination of such corporation, and furnish a certificate of the results of such examination, showing all its assets and how invested, and such other particulars as are necessary to show the character and condition of said corporation, and the necessary expense of the said examination must be paid by the corporation requesting the same.

Section 98. [4155 R. C.]—**Non-compliance—False Statements—Duty of Attorney General—Action—Removal of Officers**—Whenever any corporation, organized or having transacted business under the provisions of this Chapter, neglects or refuses to make its annual statement, as required by this Chapter, or whenever the State Auditor finds upon examination, as pro-

vided in Section 4153 of this Chapter, that any wilfully false or untrue statements in any material respect have been made, or that the business of the corporation has been conducted fraudulently or in wilful violation of any of the provisions of this Chapter, or that the corporation has transacted business different from that authorized by its articles of incorporation, he must communicate the facts to the Attorney General, whose duty it is to apply to the District Court, where its principal office is located, for an order requiring the officers, directors or managers of such corporation to show cause why they should not be removed from office or its business closed; and the court must thereupon hear the allegations and proofs of the respective parties, and if it appears to the satisfaction of the court that any one or more of them have been guilty of fraud or any material irregularity or violation of the law to the injury of the said corporation, or of non-compliance with any of the provisions of this Chapter, the court must decree a removal from office of the guilty party or parties, which decree forever bars them from holding a similar office, and must substitute a suitable person or persons to serve until the regular annual meeting or until a successor or successors are regularly chosen or elected; or, if it appears to the said court that the interests of its members or of the general public so require, the court may decree a dissolution of such corporation and a distribution of its effects.

Section 99. [4156 R. C.]—**Foreign Corporations—Prerequisites to doing Business**—Any corporation, association or society organized under the laws of any other State, Territory or government, for the purpose of furnishing life, accident, or permanent disability indemnity upon the assessment plan, where benefits are paid to such as have an insurable interest only, complying with the provisions of this Chapter, so far as applicable, and showing that it has deposited with the proper authorities or department of the Territory, or State, or government under which it is incorporated, not less than fifty thousand dollars as a guarantee fund for the security of its members, may be licensed by the State Auditor upon payment into the State Treasury of a fee of One Hundred Dollars, to do business in this State, provided such corporation first deposits with the

said Auditor a certified copy of its charter or articles of incorporation, a copy of the statement of business for the preceding year, sworn to by its president and secretary, or like officers, showing a detailed account of expenses and income, the amount of life indemnity in force, its assets and liabilities in detail, number of members, and a certificate, sworn to by the president and secretary, or like officers, setting forth that an ordinary assessment upon the members is sufficient to pay its maximum certificate of membership to the full limit named therein; a copy of its policy or certificate of membership, application and by-laws, which must show that death losses are in the main provided for by assessments upon the surviving members; and it must legally designate a person or agent residing in the State to receive service of process for said corporation.

Section 100. [4157 R. C.]—**Same—Annual Statement—Filing Fee—Revocation of License—When—Duty of Attorney General—**

Every such corporation, association or society must pay into the treasury of the State, upon filing each annual statement, a fee of twenty-five dollars, and in the event of its failure to make such statement on or before the first day of December of each year, the State Auditor must revoke its license, and thereafter, or until such annual statement is made, it must not do business in this State. When the State Auditor has reason to doubt the solvency of any foreign corporation association or society acting under the provisions of this Chapter, and when he is not fully satisfied with the certificate of the insurance commissioner or other like officer, of the State, Territory or government, of its organization, he may make an examination, as provided in this Chapter, for the examination of corporations organized in this State; and if he find that it has made fraudulent or untrue statements, or that it is conducting its business in an irregular or illegal manner; or if it appears that any such corporation in this State is conducting its business fraudulently, or is not in good faith carrying out its contracts with its members in this State, he must report the same to the Attorney General, who must thereupon commence proceedings against such corporation or association, requiring it to show why its license to do business in this State should not be revoked.

DIVISION V.

Assessment Accident Insurance Companies.

[Div. I, Part IV, Title III, Revised Codes of 1907.]

CHAPTER VII.

- Section 4158. Incorporation.
- Section 4159. Corporations subject to the act.
- Section 4160. Re-incorporation of existing companies.
- Section 4161. Payment of maximum amount of policy.
- Section 4162. Reserve or emergency fund.
- Section 4163. Transfer of risks.
- Section 4164. Visitation by the Auditor.
- Section 4165. Hearing thereon.
- Section 4166. Foreign corporation.
- Section 4167. Appointment of attorney—service.
- Section 4168. Refusal or revocation of license.
- Section 4169. Penalties for fraudulent acts.
- Section 4170. Change of beneficiaries.
- Section 4171. Exemption from execution.
- Section 4172. Penalties.
- Section 4173. Annual report.
- Section 4174. Fees.
- Section 4175. Proceedings to enjoin.
- Section 4176. Regulations for conduct of business.
- Section 4177. Amendment of by-laws—quorum.

Section 101. [4158 R. C.]—**Incorporation—Prerequisites—Duty of Auditor**—Nine or more persons may become a corporation for the purpose of transacting the business of accident insurance upon the assessment plan, by filing in the office of the Secretary of State, a declaration signed by each of them, and duly acknowledged, setting forth their intention to form such a corporation, the name of the proposed corporation, the place where its principal office shall be located in the State the mode in which its corporate powers are to be exercised, and of electing directors, or other persons, by whatsoever name or title designated, who are to have and exercise the general control and management of its affairs, and its funds, and a majority of whom shall be citizens of this State, which election shall be in the manner prescribed by its by-laws. Such declaration shall have endorsed thereon or annexed thereto, and as a part thereof, the sworn statement of three such persons, that at least five hundred persons eligible under the proposed laws of the corporation to be assured therein have, in good faith, made application in writing for such an insurance. If all the requirements of this Act have been complied with the State Auditor shall file such

declaration and record it with the certificate of the Attorney General, in a book to be kept for that purpose, and deliver to the corporation a certified copy of the papers so filed and recorded with his license, in writing to the corporation to engage in the business proposed in the declaration, which certified copy and license shall be filed in the office of the Clerk of the County where the office of the corporation is to be located. Such corporation shall not commence the business of insurance until at least five hundred persons have subscribed in writing to be insured therein the aggregate amount of at least five hundred thousand dollars and have each paid in one per cent, on the amount of the insurance severally subscribed for in cash, and the same deposited in bank to the credit of the indemnity fund, to be held in trust for the benefit of the insured or their beneficiaries and the State Auditor shall have further certified that it has complied with the provisions of this Act, and is authorized to transact business.

Section 102. [4159 R. C.]—**Corporations subject to Act—Exceptions**—Any corporation, association or society, which issues any certificate, policy, or other contract whereby upon the death or other physical disability of the assured thereunder resulting from accidental injuries, any benefit is to accrue to the assured or to his legal representatives or to the beneficiaries designated, by him, which benefit, the accumulation of reserve or emergency funds and the expenses of the management and prosecution of the business, are provided for by payments to be made, either at periods named in the contract or upon assessments as required by persons holding similar contracts, and wherein the assured's liability to contribute to the payments of benefits accrued or to accrue is not limited to a fixed sum, shall be deemed to be engaged in the business of accident insurance upon the assessment plan, and the business involving the issuance of such contracts shall be carried on in this State only by duly organized and authorized corporations, which shall be subject only to the provisions and requirements of this Act. Nothing contained in this Act shall be construed to apply to secret or fraternal societies, lodges, or councils now doing business in this State, which conduct their business and secure members on the lodge

system exclusively, having ritualistic work and ceremonies in their societies, lodges, or councils, and which are under the supervision of a grand or supreme body, nor to any association organized solely for benevolent purposes and not for profit, and which do not employ paid agents in soliciting business.

Section 103. [4160 R. C.]—**Reincorporation of Existing Companies—Not obligatory**—Any existing domestic corporation, transacting the business of accident insurance upon the assessment plan, may re-incorporate under the provisions of this Act, under its existing corporate name, by filing with the Secretary of State the declaration required by this Act, signed and duly acknowledged by a majority of its board of directors, with a statement in like manner signed and acknowledged by them that such corporation has accumulated the fund required by this Act of corporations formed hereunder, and that the same is deposited in bank or trust company, to the credit of the indemnity fund to be held in trust for the benefit of the assured or their beneficiaries and the certificate of the Attorney General of the State, whereupon the Secretary of State shall record and deliver to such corporation a certified copy of such declaration and of such certificate, together with the license to transact business; and upon filing the same in the office of the Clerk of the County wherein its principal office is located, the same shall thereupon be deemed to be incorporated under the provisions of this Act. It shall not be obligatory upon any such existing corporation to re-incorporate hereunder, any such domestic corporation may continue to exercise all the rights, powers, and privileges not inconsistent with this Act pursuant to its articles of association or incorporation, the same as if re-incorporated under this Act.

Section 104. [4161 R. C.]—**Policy to specify sum to be paid to assured—Payment, to be made, when—Failure to pay—Duty of Auditor**—Every policy or certificate hereafter issued by any corporation doing business under this Act and promising a payment to be made upon a contingency of death or disablement by accident, shall specify the sum of money which it promises to pay upon the happening of each contingency insured against, and the number of days, after satisfactory proof of the happening of such contingency on which payment shall be made. Upon

the occurrence of such contingency, unless the contract shall have been avoided (voided?) by fraud or by breach of its conditions, the corporation shall be obligated to the insured or his beneficiaries for such payment at the time and to the maximum amount, specified in the policy or certificate for such contingency. If the State Auditor shall be satisfied upon investigation that any such corporation has refused or failed to make such payment for thirty days after it became due, and after proper demand, he shall notify the corporation, to issue no new policies or certificates until such indebtedness is fully paid and no officer or agent of the corporation shall make, sign or issue any policy or certificate of insurance when such notice is in force.

Section 105. [4162 R. C.]—**Reserve or Emergency Fund—Deposit of Securities**—Every such corporation, association or society shall accumulate and maintain a reserve or emergency fund of at least five thousand dollars such fund if not already accumulated, shall be accumulated by every such existing corporation, association or society, within six months from the time this Act takes effect, and by every corporation, association or society organized under this Act within six months of the completion of its organization and the receipt of its certificate of authority to transact business in this State, and every corporation subject to the provisions of this Act shall add to such emergency fund thereafter, two and one-half per cent of the amount realized from every premium, assessment or periodical call until such fund shall be equal to the amount of two dollars for every five thousand dollars of insurance in force. Such emergency fund or any part thereof may be used for the payment of death and indemnity claims, provided that if the amount of such fund be thereby reduced below the amount contemplated in this Act the amount by which such fund is reduced be made up and restored within six months, thereafter. Such fund may be held in cash, or invested in the same class of securities required by law for the investment of funds by insurance corporations; and nothing herein contained shall prevent the creation and accumulation of other funds in excess of the amount herein required to provide for the purposes of such corporation. This Act shall not be construed to limit the accumu-

lation of a reserve or emergency fund by any corporation, association or society subject to the provisions hereof, where such fund and its accretions are for the benefit or protection of the assured, their legal representatives or beneficiaries. Any such corporation, association or society may in its discretion, through its officers or directors, deposit with the Auditor such securities and for such amounts as may be approved by him. Such deposit shall be received and held by the Auditor for the sole benefit of the assured in such corporations, and subject to the provisions of such deed of trust as shall be approved by the Auditor and accepted by him from the officers or directors of the corporation; but the deposits with the insurance department, and all other investments of reserve funds shall be made in the same class of securities as are required by law for the investment of funds by other insurance corporations.

Section 106. [4163 R. C.]—**Reinsurance—Transfer of Assets—Prerequisites**—No such corporation, association, or society organized, under the laws of this State shall transfer its risks to or re-insure them in any other corporation unless the contract or transfer on re-insurance is first submitted to and approved by a two-thirds vote of a meeting of the policy or certificate holders of such corporation called to consider the same, of which meeting a written or printed notice shall be mailed to each policy or certificate holder at least thirty days before the day fixed for such meeting. Such vote of approval of a contract of re-insurance or transfer shall act as a dissolution of the corporation, and all liability upon its certificates shall cease at the expiration of five days following such vote, but its officers may thereafter perform any act necessary to close its affairs.

No such corporation, association or society organized under the laws of this State shall transfer its risks or assets or any part thereof to, or re-insure its risk or any part thereof in, any insurance corporation or association of any other State or country which is not, at the time of such transfer or re-insurance, authorized to do business in this State under the laws thereof,

Section 107. [4164 R. C.]—**Inspection of Books by Auditor—Involency—Failure to Comply with Law—Duty of Auditor—Court Proceedings**—Proceedings to restrain corporations from

doing business. All corporations, associations, and societies to which this Act is applicable, with their books, papers and vouchers, shall be subject to visitation and inspection by the State Auditor or by such person as he may designate. The Auditor may address any inquiries to any such corporation, association or society in relation to its doings or condition or any other matter, connected with its transactions relative to the business contemplated by this Act. All officers of such corporation, association, or society shall promptly reply in writing to all such inquiries, under oath of its president, secretary or other officers if required.

When the Auditor, on investigation, shall be satisfied that any corporation organized under the laws of this State, or doing business in this State of the character defined in this Act is insolvent because of matured death claims or other obligations due and unpaid, exceeding its assets and death and disability, premiums, assessments or periodical payments called or in process of collection, or has exceeded its powers, failed to comply with any provisions of this Act, or is conducting business fraudulently, he shall report the facts to the Attorney General, who, if he shall be of the opinion that the facts require such action, must thereupon apply to the District Court, at a special term thereof, within the judicial district in which the principal office of such corporation within this State is located, for an order requiring the officers of such corporation, to show cause, at a reasonable time and place within such district, why such corporation should not be restrained from continuing to transact business, with power to the Court to adjourn the hearing thereon from time to time not exceeding sixty days in all.

Section 108. [4165 R. C.]—**Same—Hearing—Jury Trial—Judgment**—Such corporation, association, or society shall be entitled to be heard, and to a trial by jury of the facts stated in the report if the same shall be traversed and to examine papers and witnesses under oath in the usual mode of trials of actions, if the trial is by jury the Court shall submit to the jury specific request to find covering the matters in issue separately and the jury shall return a special verdict on each question submitted and if by such verdict it shall be found that the corporation is

insolvent because of matured death claims, or other obligations due and unpaid, exceeding its assets as hereinbefore provided. The Court may render judgment that it and each officer thereof be perpetually enjoined from exercising any corporate rights, privileges or franchises of such corporation and that it be dissolved, and that a receiver be appointed, and an account taken and an equitable distribution of its property, including all deposits with public officers, among its creditors and policy holders be made, if no charge of insolvency be made in such report, or if made be not established by the verdict of the jury, but it shall be found by such verdict that the corporation has exceeded its corporate powers or failed to comply with any provision of this Act, or has conducted its business unlawfully, the Court may make and enter a judgment enjoining and restraining it from the commission of such acts or such of them as the Court may determine, and in case of failure to desist therefrom within the time to be specified in such judgment, that the corporation be dissolved.

Section 109. [4166 R. C.]—**Foreign Corporations—Prerequisites to doing Business—Annual Statements—Revocation of License—When—Powers of Auditor**—Any corporation organized under authority of another State or government to issue or which is engaged in the business of issuing policies or certificates of insurance on the assessment plan,—as a condition precedent to transacting business in this State shall deposit with the Secretary of State a certified copy of its charter, a statement under oath of its president and secretary in the form by the Auditor required of its business during the year ending on the thirty-first day of December immediately preceding; a certificate under oath of its president and secretary that it is paying and for the twelve months then next preceding has paid the maximum amount named in its policies or certificates in full; a copy of its policy or certificate and application which must show that the liability of the assured to contribute to the payment of benefit is not limited to a fixed sum; a certificate from the proper authority of its home State, that corporations of this State engaged according to the provisions of this Act in accident insurance on the assessment plan are, upon compliance of the laws of

such State, legally entitled to do business in such State; that such corporation is properly authorize (authorized?) to transact business in its own State, and evidence satisfactory to the Auditor that such corporation has accumulated and maintains a reserve or emergency fund equal to that required of similar corporations in this State, as provided in Section 4162 of this Act, that such accumulation is permitted by the law of its corporation and is for the benefit of policy or certificate holders only and is invested as authorized under the law of its incorporation. Upon the filing of such statements and continued compliance with the above requirements it shall be the duty of the Auditor to issue annually to such corporation a proper authority to transact business in this State. Such corporation shall annually thereafter report to the Auditor on or before the first day of March, a complete statement of its business for the year ending December the thirty-first next preceding as provided in Section 4173 of this Act. The license or authority of such corporation to do business in this State shall be revoked by the Auditor whenever he is satisfied on investigation that such corporation is not paying the maximum amount named in its policies or certificates in full. Upon such revocation the Auditor shall cause notice thereof to be published in the newspaper in which the general laws are published, and no new business shall be thereafter done by it or its agent in this State. When any other State or country shall impose any license fees, taxes or penalties upon any corporation in this State transacting business herein provided for which are not imposed, or which are in excess of those imposed by this Act, like license fees taxes or penalties shall be imposed upon corporations of the same kind and their agents of such State or country doing business in this State. If the laws of such State where such company is organized will not admit companies organized in this State, or doing business under this Act, to do business in such State, then such company shall not be admitted to do business in this State. The State Auditor is authorized to place such construction upon the minor provisions of the insurance laws of other States as will in his judgment harmonize with this law when justice and equity will so warrant.

Section 110. [4167 R. C.]—**Same—Appointment of Attorney—Service of Process—Duties of Attorney**—Every such corporation organized under the laws of another state or country shall before doing business in this State appoint in writing some proper person of lawful age a resident of this State to be its true and lawful attorney, upon whom all processes in any action or proceeding against it may be served; and in such writing shall agree that any lawful process against it, which is served on said attorney, shall be of the same legal force and validity as if served on the corporation and the authority shall continue in force, so long as any liability remains outstanding against the corporation in this State. A copy of the writing duly certified and authenticated shall be filed in the office of the Secretary of State, and copies filed by him shall be deemed sufficient evidence thereof. Services upon such attorney shall be deemed sufficient service upon the principal. When legal process against any such corporation is served upon the attorney he shall immediately notify the corporation of such service by registered letter, prepaid, directed to its secretary, or in the case of a corporation of a foreign country to the resident manager if any in this country, and shall within two days after such service forward in the same manner a copy of the process served on him to such secretary or manager, or to any person previously designated by the corporation in writing. The plaintiff in each process so served shall pay to the attorney at the time of such service a fee of two dollars, which shall be recovered by him as part of the taxable cost if he prevails in the suit. The attorney shall keep a record of all processes served upon him which record shall show the day and hour when such service was made.

Section 111. [4168 R. C.]—**Refusal or Revocation of License—Auditor to Show Cause—Court Trial**—Any corporation subject to the provision of this Act, the license of which is refused or revoked, may make application to the district court for an order directing the State Auditor to show cause at a special term why such revocation of said license should not be set aside, or license issued. On the return of such order the issues of fact shall be put in writing and shall be tried at special term

in the usual mode of trials by jury— if a jury trial is requested by said corporation the court shall order said case to be placed on the general term calendar for trial. If the verdict or decision shall be in favor of said corporation the court shall direct the Auditor to issue a license to said corporation forthwith.

Section 112. [4169 R. C.]—**Fraudulent Acts—Penalties**—Any solicitor, agent, examining physician, applicant or other person who shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference for any application for insurance; or for the purpose of obtaining any money or benefit knowingly or wilfully presents or causes to be presented a false or fraudulent claim; or any proof in support of such a claim for the payment of the loss upon a contract of insurance issued by any corporation incorporated or doing business under the provisions of this Act, or prepares, makes or subscribes a false or fraudulent account, certificate, affidavit of proof or loss or other document or writing, with intent that the same may be presented or used in support of such a claim, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than two hundred and fifty dollars or more than one thousand dollars, or by imprisonment in the county jail for not less than three months, or more than six months, or both such fine and imprisonment at the discretion of the Court.

Section 113. [4170 R. C.]—**Change of Beneficiaries**—Membership in any such corporation shall give to any policy or certificate holder thereof the right at any time with the consent of such corporation to make a change in his payee or beneficiary or beneficiaries without requiring the consent of such payee or beneficiaries.

Section 114. [4171 R. C.]—**Benefits exempted from Execution**—The money or benefit provided or rendered by any corporation authorized to do business under this Act shall be exempt from execution and shall not be liable to attachment by trustee or to be seized, taken or appropriated by any legal or equitable process to pay any debt or liability of the policy or certificate holder or the beneficiary or beneficiaries of a deceased policy or certificate holder, unless such policy or certificate shall

be expressly made payable to a creditor and then for no more than his claim with lawful interest.

Section 115. [4172 R. C.]—**Violations of Provisions of Act—Penalties**—Any officer or agent of any such corporation, association or society, subject to any of the provisions of this Act, who shall neglect or refuse to comply with any such provision or who shall make in any report or statement any intentionally false or fraudulent statement or shall refuse to permit the State Auditor or any examiner duly authorized by him for the purpose to make an examination of its condition and business, books, papers and vouchers, or any person who shall act within this State as agent, solicitor or collector for any such corporation which shall have failed, neglected, or refused to comply with or violated any of the provisions of this Act or shall have failed or neglected to procure from the Auditor the certificate of authority required by law to transact business in this State, shall forfeit to the people of this State the sum of one hundred dollars for every such offence. If on examination of the condition and business of any such corporation transacting business in this State shall be prevented by any such refusal the Auditor shall revoke the certificate of authority issued to such corporation and it shall thereafter be unlawful for it to do business in this State until it shall have submitted to an examination and the Auditor shall have issued to it a new certificate of authority authorizing it to continue business in this State.

Section 116. [4173 R. C.]—**Annual Report—Contents**—Every such corporation, association or society doing business under this Act, shall on or before the first day of March in each year, make and file with the State Auditor a report of its affairs and operations, during the year ending on the thirty-first day of December, immediately preceding, which report shall be in lieu of all other reports required by the insurance laws of this State shall be verified by such officer of the corporation as the Auditor may require, and shall contain answer to the following questions:

1. Number of certificates or policies issued during the year or applicants admitted.
2. Amount of death indemnity effected thereby.

3. Number of death losses incurred.
4. Number of death losses paid and amount thereof.
5. Total number of indemnity claims paid and amount thereof.
6. Number of death and number of indemnity claims unpaid.
7. Does corporation charge annual dues or membership fees? If so, how much,
8. Total amount received and whether from assessments, annual dues, membership fees or other sources, and the disposition thereof.
9. Does corporation use moneys received for payment of claims to pay expenses in whole or in part; and if so state the amount used.
10. What is the amount of emergency fund and how invested?
11. If organized under the laws of this State, state such fact and the date of organization.
12. Number of policies in force and death insurance in force at the beginning and end of year.

Any corporation refusing or neglecting to make such report or to make payment of any of the fees required by this Act may upon suit of the Auditor be enjoined by the Supreme Court from carrying on any business, until such report and payment shall be made and until the cost of such action be paid.

Section 117. [4174 R. C.]—**Filing Fees**—The fees for filing statements, certificates, or other documents required by this Act or for any service or act of the Auditor shall be the same as are provided in the case of life insurance companies, and each corporation authorized to transact business under this Act shall pay on filing its application and charter thirty dollars and for each annual statement thereafter twenty dollars which shall be in lieu of all other fees for the State, county or municipal, except as provided in Section 4167 of this Act.

Section 118. [4175 R. C.]—**Injunction—Receiver—By Whom Proceedings to be instituted**—No order, judgment, or decree providing for an accounting, or enjoining, or restraining, or interfering of the prosecution of the business of any domestic insurance corporation subject to the provisions of this Act or ap-

pointing a temporary receiver thereof shall be made or granted otherwise than upon the application of the Attorney General on his own motion or after his approval of a request in writing therefor, of the State Auditor except in an action by a judgment creditor or in proceedings supplementary to execution.

Section 119. [4176 R. C.]—**Conduct of Business—Regulations—Mailing Notices—Affidavit—Presumptive Evidence**—The trustees or directors or the persons designated in the by-laws of corporations subject to the provisions of this Act, shall fix the fees, rates, and amounts of premiums, assessments or periodical calls, and the time and manner of the payment thereof, and the risk to be assumed by such corporation and the duration thereof, and may change the same from time to time as the experience of the corporation may require. An affidavit made by the officer, bookkeeper or clerk of any such corporation having charge of the mailing of notices of premiums, assessments or periodical calls, that any such notice was mailed, stating the day of mailing, shall be presumptive evidence thereof.

Section 120. [4177 R. C.]—**Meetings—Quorum—By-Laws—Amendments**—At the stated meetings for the election of officers, trustees, directors or managers of any such corporation, association or society a majority of the persons entitled to vote at such meeting shall not be necessary to constitute a quorum.

Subject to the by-laws, if any, adopted by the members of the corporation the directors or other persons, by whatsoever title designated, who are to have and exercise the general control and management of affairs, may make necessary by-laws for the corporation and the same from time to time alter or amend.

DIVISION VI.

Accident and Total Disability Insurance for Coal Miners.

[Act of March 4, 1909.]

SENATE BILL NO. 56.

An Act to create a State Accident Insurance, and Total Permanent Disability Fund, for coal miners and employees at coal washers in the State of Montana, and providing for the maintenance and management of the same; extending and defining the duties of the State Auditor; and fixing penalties for the violation of the provisions of this Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 121. [Section 1.]—**To Whom Act Applies**—All workmen, laborers and employees employed in and around any coal mines, or in and around any coal washers in which coal is treated, except office employees, superintendents and general managers, shall be insured in accordance with the provisions of this Act, against accidents occurring in the course of their occupations.

Section 122. [Section 2.]—**How Fund raised—To Whom Paid**—All corporations, partnerships, associations or persons engaged in the business of operating any coal mine or coal washers in the State of Montana shall pay to the Auditor of the State, within five days after the monthly wages at the particular mine shall have been paid, one cent per ton on the tonnage of coal mined and shipped, or sold locally, or having been mined is ready for shipment or sale during the month for which the wages were paid; and all persons mentioned in Section 1 employed in and about coal mines shall allow to be deducted from their gross monthly earnings one percent thereof, the deduction to be made by the agent, manager, or foreman of any corporation, association, partnership, person or persons engaged in the business of operating any coal mine or coal washer, and paid to the State Auditor within five days after such monthly wages have been paid.

Section 123. [Section 3.]—**Agents to report tonnage mined—Contracts waiving Effect of Act void**—The agent, manager, foreman or accountant of any corporation, partnership, associa-

tion, person or persons engaged in mining coal in Montana, shall on or before the fifth day succeeding the pay day at his respective mine, make a report under oath to the State Auditor as to the tonnage mined and subject to the payment of one cent per ton thereon; and stating the gross earnings subject to the one percent deduction as provided in this Act, accompanied by a certified check in full for the amount of the tax provided in Section 2 of this Act. It shall be unlawful for any person, employer, employee, corporation, partnership, association or union to make any contract waiving, avoiding or affecting the full legal effect of this Act.

Section 124. [Section 4.]—**Receipt of Funds by Auditor—Duties—Liabilities of Sureties of State Treasurer—Interest—**It is hereby made the duty of the State Auditor to receive all moneys as provided for in this Act, and to send the proper acknowledgement to the person making such remittance. The Auditor shall pay all moneys so received by him to the State Treasurer, who shall keep such sums in safe custody in a distinct fund to be known as the Employers and Employees Co-operative Insurance and Total Permanent Disability Fund. The State Treasurer must invest the surplus of this fund in safe and convertible State, County or City bonds or bonds of the United States. All interest accruing from such investments shall be accredited to this insurance fund. The bond of the State Treasurer shall be liable for such funds, and it shall be his duty to keep accurate accounts of the receipts and disbursements of such money.

Section 125. [Section 5.]—**Payment of Death Claims—To Whom—Duty of Auditor—Personal Inquiries—How Compensation Paid—**The Auditor of State shall keep full statistics of the operation of this function of his department in the event of the death by accident of an employee insured under this act, who shall have come to his death in the course of his employment and by causes arising therein. The Auditor of State upon being satisfied by adequate evidence of such death shall issue a warrant upon the State Treasurer to persons dependent upon the deceased, these warrants to issue in the following order: (1.) To surviving wife and child, or children, in equal shares, and if

neither wife or child, or children be alive, then (2.) to surviving parents who are dependent, or partially so, upon the deceased; if none, then (3.) to such other relative of the deceased as survive him and are dependent upon him, in the sum of Three Thousand (\$3000.00) Dollars.

A workman receiving injuries which permanently incapacitate him from the performance of work shall receive a compensation monthly, not to exceed One Dollar (\$1.00) a day for each working day. Compensation for permanent injury shall not be allowed until after the expiration of twelve weeks from the time such injuries were sustained, provided that the medical practitioner examines and pronounces the injury as being permanent, compensation may then be allowed from commencement of disability. The Auditor of State, however, may, when in his judgment he deems it advisable, use so much of the funds as is necessary in the procuring of a medical practitioner, for the purpose of examination or treatment under this Act, for such injuries as herein mentioned compensation shall continue during disability, or until settlement is affected as provided for in Section 9 of this Act. Total or permanent disability shall consist of the loss of both legs or both arms, the total loss of eye sight or paralysis, or other conditions incapacitating him from work, caused by accident, or injuries received during employment as specified by this Act; provided, that if death, as a result of the injury, ensues at a period not longer than one year from date of accident the sum of Three Thousand Dollars (\$3000.00) shall be paid the deceased workman's dependents as hereinbefore provided. The representatives of a foreigner, except the widow or dependent children, who were not living within the country at the time of the accident, shall have no claim for the compensation provided for in this Act. Such foreign person shall file their foreign address, if married, with the office of their employer with whom they are employed and duplicate thereof with the State Auditor, giving their wife's name and dependent children, and such other identification as may be required by the Auditor of State. Loss of any limb, or eye, caused by accident to a workman while employed as provided for in this Act, shall be compensated for in the sum of

One Thousand (\$1000.00) Dollars, provided, that in the event there shall be no funds available in the fund to pay the Auditor's warrant when drawn the same shall draw interest out of the fund at the rate of ten per cent per annum until such warrant is called for payment by the Treasurer which shall be as soon as the fund is sufficient to pay the same with its interest then due.

Section 126. [Section 6.]—**Monthly Payments—Applications for**—Where a workman is entitled to monthly payments under this Act, he shall file with the Auditor of State his application for such, together with a certificate from the County physician of the County wherein he resides, attested before a Notary Public.

Section 127. [Section 7.]—**Fraudulent Claims—Duty of Auditor**—If any person or persons, company or corporation who is then paying into this insurance fund shall believe that any person or persons are obtaining, or have made application to obtain benefits hereunder improperly or fraudulently, and shall file his written request that such person's claim be investigated, the State Auditor must upon the receipt of such request request the Secretary of the State Board of Health to make an examination for the purpose of this Act and his certificate as to the condition of the person or persons with reference to their rights to benefit under this Act shall be conclusive evidence as to his condition.

Section 128. [Section 8.]—**Claimant refusing to submit to Examination—Effect**—If the workman refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation under this Act shall be suspended until such examination takes place, and shall absolutely cease unless he submits himself for an examination within one month after being required to do so.

Section 129. [Section 9.]—**Monthly Payments—Redemption by Lump Sum—Amount**—Where any monthly payment has been made to a workman for any period whatever, the liability under this Act, may on the application by, or on behalf of the workman, be redeemed by the payment of a lump sum, which in no instance shall be in excess of the amount specified as death

indemnity, and all monthly payments made prior shall be deducted from such settlement.

Section 130. [Section 10.]—**Annual Report of Auditor—Plenary Power to adjust Claims**—The Auditor of State shall report in January of each year to the Governor of the experience and business of this function of his department, and shall have plenary power to determine all disputed cases which may arise in its administration not herein provided for, and to recommend in his report the rates or premium necessary in order to preserve such fund, and shall order paid such indemnification as herein provided. He shall have power to define the insurance provisions of this Act by regulations not inconsistent therewith and shall prescribe the character of the monthly or other reports required of the parties liable hereunder and the character of the proofs of deaths, or to total permanent disability, and shall have power to make all other orders and rules necessary to carry out the true intent of this Act.

Section 131. [Section 11.]—**Release of Employer—Benefits Exempted—Suit—Forfeiture of Benefits**—No money paid or payable in respect of insurance or monthly compensation under this Act shall be capable of being assigned, charged, taken into execution or attached, nor shall the same pass to any other person by operation of law; and the acceptance of pecuniary benefit under the provisions of this Act shall operate to release the person or persons, corporation, partnerships, or associations causing such injuries or death for which benefits are so claimed, who shall have paid the assessment provided in Section 2 of this Act, and also the employer, officers and agents thereof from all liability and claim arising from such injuries or death. The commencement of a suit to recover for such injuries or death shall operate as a forfeiture of the right to benefit under this Act.

Section 132. [Section 12.]—**Violations of Provisions of Act—Penalties**—A manager, agent, foreman, accountant, person or persons who represent any corporation, partnership, association, person or persons, engaged in the mining or managing of any coal mines or coal washers in Montana, or person or persons liable for the payments herein provided for who shall violate the intent of this Act by inaccurate reports of tonnage of

coal produced by them, or the earnings of employees in their employ or who in any manner hinders or obstructs the Auditor of State in ascertaining facts bearing upon any case provided for in this Act or who may refuse correctly to make out such reports as are required by this Act, or as requested by the Auditor of State, or submit to its provisions, when liable therefor, or who shall fraudulently obtain benefits hereunder shall be fined for each offense the sum of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars and imprisonment in the County jail for a period of not less than one month nor more than six months, or by both such fine and imprisonment. The proceeds of all fines shall be forwarded to the State Treasurer and by him credited to the Insurance Fund.

Section 133. [Section 13.]—**Act takes effect—When—**This Act to be in full force and effect from and after the first day of October nineteen hundred and ten, benefits to commence four months thereafter. (Approved March 4, 1909.)

DIVISION VII.

Fire Insurance Companies.

[Div. I, Part IV, Title III, of Revised Codes of 1907.]

CHAPTER I.

Section 134. [4031 R. C.]—**Must Transact Business through Resident Agent**—It shall be unlawful for any fire insurance corporation legally authorized to transact business in the State of Montana, to write, place, or cause to be written or placed, any policy or contract of indemnity of insurance upon property situate in the State of Montana, in or through any such legally authorized corporation outside of the State of Montana, or in or through any other corporation outside of the State of Montana, or to adjust, settle or pay, or cause to be adjusted, settled or paid any loss arising from any contract of indemnity or insurance, except those made through a duly licensed agent of the insurance corporation, resident in the State of Montana.

Section 135. [4032 R. C.]—**Revocation of License—When—Effect of Revocation**—Any corporation or corporations violat-

ing the provisions of the first section of this Act, upon notice and satisfactory proof thereof being made to the State Auditor, shall have its or their authority to transact business in the State of Montana, revoked for a period of not less than ninety days, and any Insurance Corporation whose license to do business may be revoked by the State Auditor, shall not again be permitted to do business in the State of Montana until all taxes and penalties due thereon shall have been paid, together with any expenses that may be due under the provisions of this Act to the State Auditor, and such corporation shall be only re-admitted to transact business in the State of Montana upon a complete compliance with the laws now in force in regard to the admission of insurance corporations to do business in Montana. And no action shall be maintained in the courts of this State upon any policy or contract of indemnity or insurance written or placed in violation of the provisions of this Act.

Section 136. [4033 R. C.]—**Violation—Auditor to inspect Books—Refusal of Inspection—Penalty**—When notice of the violation of the first section of this Act is received by the State Auditor it shall be his duty in person or by deputy, to forthwith visit the office of such corporation or corporations, where such contract of insurance may have been written or made and demand an inspection of the books and records of such corporation or corporations.

Any corporation or corporations refusing to exhibit its or their books and records for his inspection shall be deemed guilty of a violation of the provisions of this Act, and the penalty provided in this Act shall be immediately enforced against such corporation or corporations by the State Auditor.

Section 137. [4034 R. C.]—**Compensation of Auditor**—The State Auditor shall receive as a compensation for the services rendered under the provisions of this Act his necessary traveling expenses and ten dollars per diem, which sum shall be charged against the corporation or corporations so visited by him, and collected from such corporation or corporations.

Section 138. [4035 R. C.]—**Resident Agent—Effect of Removal**—The State Auditor is hereby prohibited from issuing a certificate of authority to write policies of fire insurance, or to

solicit and obtain and transact fire insurance business, to any person, agent, firm or corporation, unless such person, agent, firm or corporation is a legal resident of the State of Montana, at the time such authority is issued. And whenever any person, agent, firm or corporation so authorized to issue policies of fire insurance and solicit and transact fire insurance business shall remove from the State of Montana, the authority issued to such person, agent, firm or corporation shall be revoked, and the same shall be null and void.

Section 139. [4036 R. C.]—**Foreign Companies—Resident Agents—Exceptions**—No fire insurance company or association not incorporated under the laws of this State, authorized to transact business herein, shall make, write, place, or cause to be made, written or placed, any policy, duplicate policy, or contract of insurance of any kind or character, or any general floating policy, upon property situated or located in this State except after said risk has been approved, in writing, by an agent who is a resident of this State, regularly commissioned and licensed to transact insurance business herein, who shall countersign all policies so issued and receive the commission thereon when the premium is paid, to the end that the State may receive the taxes required by law to be paid on the premiums collected for insurance on all property located in this State. Nothing in this Act shall be construed to prevent any such insurance company or association, authorized to transact business in this State, from issuing policies at its principal or department offices, covering property in this State, provided, that such policies are issued upon application procured and submitted to such company by agents who are residents of this State, and licensed to transact the business of insurance herein, and who shall keep a record of and countersign all policies so issued and receive the commission thereon when paid.

No provisions of this section is intended to or shall apply to direct insurance covering the rolling stock of railroad corporations or property in transit while in the possession and custody of railroad corporations or other common carriers.

Section 140. [4037 R. C.]—**Reinsurance Forbidden, When**—No fire insurance company or association shall reinsure in any

manner whatsoever; the whole or any part of a risk taken by it on property situated or located in this State in any other company or association not authorized to transact business in this State. No fire insurance company or association shall transfer or cede, in any manner whatsoever, to any company or association not authorized to do business in the State any risk or liability or any part thereof assumed by it, under any form or contract of insurance, covering property located in this State, including any risk or liability under any general or floating policy, or any agreement, general, floating, or specific, to reinsure excess loss by one or more fires.

No fire insurance company or association shall reinsure, or assume as a re-insuring company, or otherwise, in any manner or form whatsoever, the whole or any part of any risk or liability, covering property located in this State, of any insurance company or association not authorized to transact business in this State.

Section 141. [4038 R. C.]—**Duties and Powers of Auditor**—Whenever the State Auditor shall have or receive information that any fire insurance company or association, not incorporated under the laws of this State, has violated any of the provisions of Section 1 of this Act, [4036] he is authorized, at the expense of such company or association, to examine, by himself or his accredited representative, at the principal office or offices of such company or association, located in the United States of America, or in any such foreign country, and also at such other offices or agencies of such company or association as he may deem proper, all books, records and papers of such company or association, and may examine under oath the officers, managers and agents of such company or association as to such violation or violations. The refusal of any such company or association to submit to such examination or to exhibit its books and records for inspection shall be presumptive evidence that it has violated the provisions of the the first section of this Act, and shall subject it to the penalties prescribed and imposed by this Act.

Section 142. [4039 R. C.]—**Report of Risks—Refusal—Penalties**—Every fire insurance company or association shall annu-

ally and at such other times as the State Auditor may require, in addition to all returns now by law required of it or its agents or managers, make a return to the State Auditor in such form and detail as may be prescribed by him, of all re-insurance or cessions of risks or liability contracted for or affected by it, whether by issue of policy entry or bordereau, or general participation agreement, or by excess loss, re-insurance, or in any other manner whatsoever, upon property located in this State, or covering, whether specified or otherwise, any risk or liability upon property so located, such return to be certified by the oath of its president and secretary, if a company or association of one of the United States, and if a company or association of a foreign country, by the oath of its managers in the United States as to such re-insurance or cessions affected through its branch office in the United States, and by the oath of its president and secretary, or by officers corresponding thereto, at its home office wherever located, as to re-insurance or cessions aforesaid contracted for or affected through the foreign office. The refusal of any such company or association to make the returns herein required shall be presumptive evidence that it is guilty of violating the provisions of the second section of this Act, and shall subject it to the penalties prescribed and imposed by this Act.

Section 143. [4040 R. C.]—**Penalties for Violations of Act—**Any insurance company or association wilfully violating or failing to observe and comply with any of the provisions of this Act, applicable thereto, shall be subject to and liable to pay a penalty of five hundred dollars for each violation thereof, and for each failure to observe and comply with any provisions of this Act; any such penalty may be collected and recovered in an action brought in the name of the State in any court having jurisdiction thereof. Any insurance company or association which shall neglect and refuse for thirty days after judgment in any such action to pay and discharge the amount of such judgment shall have its authority to transact business in this State revoked by the State Auditor and such revocation shall continue for at least one year from the date thereof, nor shall any insurance company or association whose authority to trans-

act business in this State shall have been so revoked be again authorized or permitted to transact business herein until it shall have paid the amount of such judgment and shall have filed in the office of the State Auditor a certificate signed by its president or other chief officer to the effect that the terms and obligations of the provisions of this Act are accepted by it as a part of the conditions to its right and authority to transact business in this State.

Section 144. [4041 R. C.]—**Agents to be Residents of State—Duty of Auditor in Premises**—The State Auditor is hereby prohibited from issuing a certificate of authority to write policies of fire insurance, or to solicit and obtain and transact fire insurance business, to any person, agent, firm or corporation, unless such person, agent, firm or corporation is a legal resident of the State of Montana, at the time such authority is issued. And whenever any person, agent, firm or corporation so authorized to issue policies of fire insurance and solicit and transact fire insurance business shall remove from the State of Montana, the authority issued to such person, agent, firm or corporation shall be revoked and the same shall be null and void.

(Note.—Sections 4036 to 4041, Revised Codes, above, comprise act approved March 6, 1899.)

DIVISION VIII.

Mutual Hail and Fire Insurance Companies.

[Div. I, Part IV, Title III, Revised Codes of 1907.]

CHAPTER III.

- Section 4076. Who may form company.
- Section 4077. Articles of incorporation.
- Section 4078. Directors.
- Section 4079. Officers.
- Section 4080. Bond of officers.
- Section 4081. Powers of corporations.
- Section 4082. Who may become members.
- Section 4083. Policies. Liability of members.
- Section 4084. Duty of insured in case of loss.
- Section 4085. When obligations due.
- Section 4086. Actions.
- Section 4087. Annual statement.
- Section 4088. Members may withdraw.
- Section 4089. Examination of company.
- Section 4090. Foreign mutual hail, cyclone and tornado insurance company.
- Section 4091. Corporations now existing may comply with the requirements of this act.

Section 145. [4076 R. C.]—**Who May Form Company**—That any number of persons, not less than one hundred, residing in this State, who, collectively, shall own not less than five thousand acres of grain which they desire to have insured, may form an incorporated company for the purpose of mutual insurance of growing crops against loss or damage by hail, and farm improvements by fire.

Section 146. [4077 R. C.]—**Articles of Incorporation—Duty of Auditor**—Such persons shall file with the State Auditor a declaration of their intention to form a company for the purposes expressed in the preceding section, which declaration shall be signed by at least one hundred incorporators; and shall be accompanied by a copy of the proposed articles of incorporation, subscribed by three or more persons and acknowledged by each before some person authorized to take and certify acknowledgments of conveyance of real property in which must be stated the name or title by which such corporation or company shall be known in law, the location of its principal business office, which office must be located in this State, the name and residence of the incorporators, the object of the corporation, with its plan of doing business clearly and fully defined, the number of its directors and the names of those elected to serve until its first annual meeting, which articles of incorporation shall be by the State Auditor submitted to the Attorney General for examination, and if such articles shall be found by the Attorney General to be in accordance with the provisions of this Chapter, and not in conflict with the Constitution and laws of the United States or of this State, he shall make a certificate of the fact and return it to the State Auditor, who shall reject the name or title applied for by any persons when he shall deem the same so similar to one already appropriated by another company or corporation as to be likely to mislead the public. When the articles of incorporation shall have received the approval of the Attorney General and the State Auditor, the Auditor must deliver the same to said incorporators, with such approval, and the same must be filed, recorded and certified as required by Section 3825 of the Civil Code of the State of Montana.

Section 147. [4078 R. C.]—**Directors—Number**—The number of directors shall not exceed seven, the majority of whom shall constitute a quorum to do business, to be elected by the members by ballot, and they shall hold their offices until their successors are elected and qualified.

Section 148. [4079 R. C.]—**Officers—Election**—The policy holders shall elect from their number a president, a vice president and treasurer, and shall also elect a secretary, who may or may not be a member of the company, all of whom shall hold their offices for one year and until their successors are elected and qualified.

Section 149. [4080 R. C.]—**Treasurer—Secretary—To Give Bonds**—The treasurer and secretary shall each give bonds to the company for the faithful performance of their duties, in such amounts as shall be prescribed by the board of directors.

Section 150. [4081 R. C.]—**Powers of Corporations and Directors—By-Laws—Amendments**—Such corporation and its directors shall possess the usual powers and be subject to the usual duties of corporations and directors thereof, and may make such by-laws, not inconsistent with the Constitution or this Act, as may be deemed necessary for the management of its affairs in accordance with the provision of this Act, and may prescribe the duties of its officers and fix their compensation, and may alter and amend its by-laws when necessary.

Section 151. [4082 R. C.]—**Who May Become Members**—Any person owning property in this State, insurable under this Act, may become a member of this company by insuring therein and not otherwise, and shall be entitled to all the rights and privileges pertaining thereto. The membership in such company shall consist of the persons insuring therein, provided that such number shall never be less than the number required by Section 1 [4076] of this Act for the purposes of incorporation.

Section 152. [4083 R. C.]—**Policies—Liability of Members**—Such company may issue policies only on growing crops, against loss or damage by hail, and on farm improvements against loss by fire. All persons so insured shall make applications in writing and give their obligations to the company for

the payment of losses and expenses as shall be required by the by-laws of said company. The liability of the members may be limited by the by-laws of such company; Provided, that in case the whole amount of such obligation shall be insufficient to pay all losses sustained after necessary expenses in any year, then sufferers insured by such company shall receive their proportionate share of the funds realized from such obligation in full satisfaction of such losses, and no member shall ever be called on to pay more than the full amount of his obligation.

Section 153. [4084 R. C.]—**Loss—Duty of Insured—Arbitration**—Every member of such company who may sustain loss or damage by hail or fire shall immediately notify the secretary thereof, stating the amount of damage or loss claimed, then the person or persons authorized by the by-laws of such company to adjust losses, shall proceed to ascertain the amount of such loss or damage and adjust the same. If there is a failure of the parties to agree upon the amount of such damage or loss, the same shall be submitted to three persons as a committee of reference, one of whom shall be selected by the claimant, one by the company, and the third by such two persons, who shall be sworn to a faithful and impartial investigation, and award as may be provided for by the by-laws of said company, who shall have authority to examine witnesses and determine all matters in dispute, and shall make their award in writing to the secretary of the company, and such award shall be final, unless either party to the action shall appeal to the court within thirty days after such award; Provided, such final award shall not be made before the time for the maturity of said crop, or loss by fire. The pay of the membership of such committee shall be two dollars per day for each day of service so rendered in the discharge of their duties, which shall be paid by the claimant unless the award of such committee shall exceed the sum offered by the company in liquidation of such loss or damage, in which case said expense shall be paid by the company.

Section 154. [4085 R. C.]—**When Obligations Due**—All obligations shall be due at such a time as the company in its by-laws provide, and losses shall not be due and payable until thirty days after said obligations are due and payable; Pro-

vided, that it shall be the duty of such company to use due diligence in the collection of such obligation.

Section 155. [4086 R. C.]—**Actions at Law**—Suits at law may be brought against any member of such company who shall neglect or refuse to pay any obligation given by him or her according to the provisions of this Act, and the directors or officers of any company so formed who shall wilfully refuse or neglect to perform the duties imposed upon them by the provisions of this Act, shall be liable in their individual capacity to the persons sustaining such loss. Suit at law may be brought and maintained against any such company by members thereof for losses sustained if payment is withheld after such losses become due.

Section 156. [4087 R. C.]—**Annual Statement**—It shall be the duty of the secretary to prepare an annual statement showing the condition of such company and the business transacted the preceding year, and present the same at the annual meeting, and file a verified copy of same with the State Auditor as provided by law.

Section 157. [4088 R. C.]—**Members May Withdraw—Cancellation of Certificate, When**—Any member of such company may withdraw therefrom by surrendering his policy for cancellation and paying all obligation for the year's insurance; Provided, that the company shall have power to cancel the certificate of any member for good and sufficient cause by giving the insured notice to that effect, and not otherwise.

Section 158. [4089 R. C.]—**Examination—Cost—Fees—Payable Into What Fund**—It shall be the duty of the president, vice-president and secretary of every such company, on the 1st day of January, each year, or within a month thereafter, to prepare under their own oath and transmit to the State Auditor, a statement of the condition of the company on the last day of the month preceding, in such form as the law may direct. If, upon examination, he is of the opinion that such company is doing business correctly, in accordance with the provisions of this Act, he shall thereupon furnish the company a certificate which shall be deemed authority to continue business the ensuing year. For such examination and certificate of approval,

the company shall pay to the State Auditor ten (\$10.00) dollars; for agent's certificate of authority, five (\$5.00) dollars; and for filing annual statement, twenty-five (\$25.00) dollars; all of which shall be paid into the State Treasury and applied to the general fund.

(Note.—Sections 4076 to 4089 above, comprise act approved March 2, 1905.)

Section 159. [4090 R. C.]—Foreign Mutual Hail, Cyclone and Tornado Insurance Companies—That all mutual hail, cyclone and tornado insurance companies or associations organized under the laws of another state and transacting business in this state shall be required to comply with the provisions of the laws governing fire and miscellaneous insurance corporations doing business in this state, provided that such companies shall be possessed of assets in excess of all liabilities of an amount equal to at least fifty thousand dollars.

Section 160. [4091 R. C.]—Corporations Now Existing May Comply With the Requirements of this Act—That any company transacting business in this state upon the plan herein mentioned shall be granted ninety days from and after the approval of this Act within which to comply with the requirements herein set forth.

(Note.—Sections 4090 and 4091 above, comprise act approved March 9, 1907.)

CHAPTER IV.

MUTUAL RURAL INSURANCE COMPANIES.

- Section 4092. Who may organize.
- Section 4093. Articles of incorporation. Contents.
- Section 4094. Articles of Incorporation. Execution and filing.
- Section 4095. Certified copies as evidence.
- Section 4096. Fees for filing articles.
- Section 4097. Adoption of by-laws.
- Section 4098. What by-laws may cover.
- Section 4099. By-laws binding on members.
- Section 4100. Directors. Officers.
- Section 4101. When company may commence to issue policies.
- Section 4102. Minimum aggregate of insurance.
- Section 4103. Annual statement.
- Section 4104. Failure to file statement. Injunction.
- Section 4105. Insurance confined to members outside of cities.
- Section 4106. Business confined to home county.
- Section 4107. No profits or dividends.
- Section 4108. Voting.
- Section 4109. Amendment of articles.
- Section 4110. License to do business not required.
- Section 4111. General insurance laws not applicable.
- Section 4112. Act not to affect existing laws.

Section 161. [4092 R. C.]—**Who May Organize**—Any number of persons, not less than twenty-five, who collectively shall own in any county in this State property of the value of twenty-five thousand dollars, which they desire to have insured, may form a corporation, under the provisions of this Act, for the purpose of insuring the property of the members, situate within the county where the operations of the corporation are to be carried on, against loss or damage by fire, or the elements, of any such agencies as may be specified in the articles of incorporation.

Section 162. [4093 R. C.]—**Articles of Incorporation—Contents**—Articles of incorporation must be prepared setting forth:

1. The name of the corporation, which must include the name of the county in which the operations of the company are to be carried on.

2. The purpose for which it is formed.

3. The name of the county in which its operations are to be carried on, and the place within such county where its principal business shall be transacted.

4. The term for which it is to exist, not exceeding twenty years.

5. The number of its directors, which shall not be less than five, nor more than thirteen, and the names of those who are appointed to manage the affairs of the corporation until the first annual meeting of the members, and until their successors are elected and qualified.

6. The names of the incorporators, and the value of the property, desired insured, owned by each in the county where the operations of the company are to be carried on.

Section 163. [4094 R. C.]—**Same—Execution and Filing**—The articles of incorporation must be executed in duplicate by, at least, three of the incorporators, and acknowledged before some officer authorized to take and certify acknowledgments of conveyances of real property, and one of the instruments shall be filed with the County Clerk and Recorder of the county where the operations of the corporations are to be carried on, and the other with the State Auditor. The copy of articles of incorporation filed with the State Auditor shall first be certified by the

County Clerk as being a true and correct copy of the articles filed with such County Clerk, and, thereupon, the persons named in the articles of incorporation, and the members, thereafter, of such corporation, shall be a body politic, and corporate for the term stated in the articles, not exceeding twenty years.

Section 164. [4095 R. C.]—**Same—Prima Facie Evidence—**A copy of any articles of incorporation filed in pursuance of this Act, and certified by the State Auditor, must be received in all courts, and other places, as prima facie evidence of the facts therein stated, and of the due incorporation of the company named in such articles.

Section 165. [4096 R. C.]—**Same—Filing Fee—**The fee for filing the articles of incorporation with the County Clerk and Recorder shall be one dollar, and the fee for filing the articles of incorporation with the State Auditor shall be ten dollars.

Section 166. [4097 R. C.]—**Adoption of By-Laws—Notice—**Upon filing the articles of incorporation, by-laws shall be adopted by a majority of the members present at a meeting called for that purpose by a majority of those executing the articles of incorporation, upon, at least, five days' notice by mail to each member.

Section 167. [4098 R. C.]—**What By-Laws may cover—**A corporation, organized under the provisions of this Act, may by its by-laws provide:

1. The terms of the directors, provided, that at least part of the directors shall be elected at each annual meeting and that the term of no director shall be longer than three years.

2. The date of the annual meeting of the members, at which directors shall be elected, provided that each member shall be permitted to cast one vote either in person or by proxy for each director to be elected, and each member shall be permitted to cast one vote either in person or by proxy for each director to be elected, and each member shall be permitted to cumulate his votes for one or more directors, not exceeding the number to be elected.

3. How the directors shall be elected in case no election occurs at the annual meeting.

4. How the by-laws shall be amended.
5. The duties and compensation of the officers, and the bonds to be required of them.
6. The manner and time of giving notice of all annual and special meetings of the members.
7. The character of property to be insured, and under what restrictions and limitations.
8. Restrictions and limitations as to membership, and the powers, duties and obligations of members.
9. The form of application and form of policy.
10. The manner of making and collecting assessments.
11. The manner of making proof, adjustment and payment of losses.
12. The manner of the withdrawal, suspension and expulsion of members.
13. The books and records to be kept by the corporation, reports required of the officers, and the manner of examining and auditing their accounts.
14. What shall be contained on the corporate seal, and when it shall be required to be used.
15. Such other matters as may be deemed necessary for the management of the affairs of the company, and the carrying out of the purposes for which it is incorporated.

Section 168. [4099 R. C.]—**By-Laws binding on Members—Part of Contract**—The by-laws of any corporation organized under the provisions of this Act shall be binding on all members, and be, and become, as from time to time amended, a part of the contract of insurance between the company and the members.

Section 169. [4100 R. C.]—**Board of Directors—Election of Officers**—The general management of the affairs of the corporation shall be vested in the Board of Directors, who shall be members of the company, and such board shall elect, from their number, a president and vice-president, and shall also elect a secretary and a treasurer, who may or may not be members of the company, all of whom shall hold their offices until the first meeting of the directors following the annual meeting of the members, unless removed by the Board of Directors.

Section 170. [4101 R. C.]—**When Company may issue Policies**—No policies of insurance shall be issued by any company organized under the provisions of this Act until such company shall have received applications aggregating fifty thousand dollars, and, when applications aggregating that amount have been received, the company shall cause to be filed with the County Clerk and Recorder of the county where its operations are carried on a statement to that effect, certified to by its president and secretary, with its corporate seal attached.

Section 171. [4102 R. C.]—**Minimum Aggregate of Insurance—Winding up Affairs—Notice**—Whenever insurance, carried by any corporation organized under the provisions of this Act, shall in the aggregate amount to less than fifty thousand dollars, no further applications shall be received or policies written, and all policies existing shall become null and void, notice of which shall be given to each member by mail, and the directors of the company shall proceed to wind up its affairs in such manner as a majority of the members may direct present at a meeting called for that purpose.

Section 172. [4103 R. C.]—**Annual Statement**—Every corporation organized under the provisions of this Act shall, within twenty days after the thirty-first day of December of each year, cause to be filed with the County Clerk and Recorder of the county where its operations are carried on, a statement in writing, signed by its president and secretary, with its corporate seal attached, showing the conditions of the company on that date, exhibiting the following facts:

1. The name of the president and secretary.
2. The date of the annual meeting.
3. The amount of insurance in force.
4. The number of members.
5. The number of assessments during the year.
6. The amount paid in losses during the year.
7. The amount of the losses claimed and not paid with the reason for non-payment.
8. The number of members withdrawn, suspended and expelled during the year.
9. The number of new members admitted during the year.

10. The expenses during the year.

11. The amount of money on hand. A true copy of said statement verified by the county clerk shall be sent by mail to the State Auditor, who shall file the same in his office, and said State Auditor shall have and is hereby granted authority to, at any time, investigate and examine the affairs and books of any such corporation, or such examination may be made by the State Examiner, who shall report his findings to the State Auditor.

Section 173. [4104 R. C.]—**Failure to file Statement—Injunction**—No report, statement or return of any nature, shall be required of any corporation organized under the provisions of this Act other than that required by Section 4103. Any corporation failing to file such statement may, on suit brought by any member, be enjoined by the District Court of the county from carrying on any business until such statement is filed.

Section 174. [4105 R. C.]—**Insurance confined to Members outside of Cities**—No corporation organized under the provisions of this Act shall insure any property not owned by a member of the company, and no insurance shall be written or taken by any such corporation within the limits of any incorporated town or city.

Section 175. [4106 R. C.]—**Business confined to Home County**—No company, organized under the provisions of this Act, shall insure any property not situate within the county where its operations are to be carried on.

Section 176. [4107 R. C.]—**No accumulation of Profits or Dividends**—No corporation, organized under the provisions of this Act, shall accumulate any profits or pay any dividends.

Section 177. [4108 R. C.]—**Voting**—Each member of a corporation, organized under the provisions of this Act, shall have but one vote at all meetings of the members, and no vote shall be cast by proxy, except as may be prescribed by the by-laws; Provided, however, that the provisions of this section shall not apply to the election of directors.

Section 178. [4109 R. C.]—**Amendment of Articles of Incorporation**—Any corporation, organized under the provisions of this Act may, by a vote of two-thirds of the members present at any annual meeting, or at any special meeting called for that

purpose, amend its articles of incorporation in any particular within the scope of this Act, by causing amended articles of incorporation to be filed in the same form and manner as required for articles of incorporation, which amended articles of incorporation shall only be required to be signed by the president and secretary of the corporation with the corporate seal attached.

Section 179. [4110 R. C.]—**Agents' Certificates and License Fee not required**—No agent of any corporation, organized under the provisions of this Act, shall be required to procure any certificate of authority from any public official to transact business for the corporation, nor shall the corporation or any of its officers, agents or employees be required to pay any fee or license for the transaction of the business of the corporation, except as provided in this Act.

Section 180. [4111 R. C.]—**General Insurance Laws not applicable**—The provisions of Section 650 to 682, both inclusive, of the Civil Code, and the provisions of the Act of the Fifth Legislative Assembly, entitled: "An Act to provide for the licensing of insurance companies, associations and societies and doing business in the State of Montana," approved March 4, 1897, and all Acts amendatory thereof, shall not apply to any corporation organized under the provisions of this Act.

Section 181. [4112 R. C.]—**Act does not affect existing Laws**—Nothing in this Act shall be construed as being in conflict with, or repealing any law or act relating to the licensing of insurance companies.

(Note.—Sections 4092 to 4112, above, comprise act approved February 19, 1907.)

DIVISION IX.

Foreign Surety Companies.

HOUSE BILL NO. 360.

(Act approved March 10, 1909.)

“An Act to permit Foreign Surety Companies to do business in this State, and regulating the method thereof.”

Be it enacted by the Legislative Assembly of the State of Montana:

Section 182 [Section 1.] **What Companies may do Business in State**—Any Company with a paid up capital of not less than two hundred and fifty thousand dollars, incorporated and organized under the laws of any state of the United States for the purpose of transacting business as surety on obligations of persons or corporations, and which has complied with all the requirements of the law regulating the admission of such companies to transact business in this State, may be accepted as surety upon the bond of any person or corporation required by the laws of this State to execute a bond; it being the intent of this chapter to enable corporations created for that purpose to become the surety on bonds required by law, subject to all the rights and liabilities of private persons.

Section 183. [Section 2.] **Bonds and Undertakings to be accepted**—Whenever any bond, undertaking, recognizance or other obligation is by law, or the charter, ordinance, rules or regulations of any municipality, board, body, organization, or public officer, required or permitted to be made, given, tendered or filed, with surety or sureties, and whenever the performance of any act, duty or obligation, or the refraining from any act is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guaranty may be executed by a surety company qualified to act as surety or guarantor as above provided, and such execution by such company of such bond, undertaking, obligation, recognizance or guarantee shall be in all respects a full and complete compliance with every requirement of the law, charter, ordinance, rule or regulation, that such bond, undertaking, obligation, recognizance or guaranty shall be executed by one surety or by one or more sureties, or that such surety shall be a resident, or householder, or free-

holder, or either or both, or possessed of any other qualifications; and all courts, judges, heads of departments, boards, bodies, municipalities and public officers of every character shall accept and treat accordingly such bond, undertaking, obligation, recognizance or guaranty when so executed by such company, as conforming to and fully and completely complying with every such requirement of every such law, charter, ordinance, rule or regulation.

Section 184. [Section 3.]—**How Company may be released from Liability**—Such company may be released from its liability on a bond on the same terms and conditions as are by law prescribed for the release of individual sureties.

Section 185. [Section 4.]—**Annual Statement**—Every surety company chartered by this state shall annually, within sixty days after December 31st of the preceding year render to the insurance commissioner a statement, signed and sworn to by its President and Secretary, stating; the amount of its capital and the manner of its investment, particularizing each item of investment; the amount of bonds upon which such company is surety; and the amount of its liabilities. Such statement shall be made on a printed form furnished by the insurance commissioner, and shall include such other information as the said Commissioner may require.

Section 186. [Section 5.]—**Foreign Corporations—Must Comply with Laws**—Any company incorporated and organized under the laws of any state of the United States other than this state, for the purpose of transacting business as surety on obligations of persons or corporations, may transact such business in this State upon complying with the provisions of this chapter, and not otherwise.

Section 187. [Section 6.]—**Foreign Corporations Must file Statement—Contents**—Every such company before transacting any business in this state shall deposit with the Insurance Commissioner a copy of its charter or articles of association and a statement signed and sworn to by its President and Secretary stating: the amount of its capital, which shall not be less than two hundred and fifty thousand dollars, whether such company does surety business solely or other insurance business together

with surety insurance, and the manner of its investment, designating the amount invested in mortgages, in the stock of incorporated companies, stating what companies, in public securities, and also the amount invested in other securities, particularizing each item of investment; the amount of existing bonds upon which such company is surety, stating what portion thereof is secured by the deposit with such company of collateral security, the amount of premium thereon and the amount of its liabilities, specifying therein the amount of outstanding claims, adjusted or unadjusted, due or not due, and giving such other information as the Insurance Commissioner shall require. The Insurance Commissioner may thereafter issue to such company a license authorizing it to transact business in this State.

Section 188. [Section 7.]—**Same—Appointment of Attorney—Service of Process**—No such company shall, directly or indirectly, take risk or transact business in this state until it shall have first appointed, in writing, the Insurance Commissioner of this State to be the attorney of such company in this state, upon whom all process in any proceeding against such company may be served. Said power of attorney shall stipulate and agree on the part of the company, corporation, or association, that any lawful process against the same which is served on said attorney shall be of the same legal force and validity as if served on the company, corporation, or association, and that the authority shall continue in force so long as the certificate of membership, policy or liability remains outstanding against the company, corporation, or association, in this state. A certificate of such appointment, duly certified and authenticated, shall be filed in the office of the Insurance Commissioner, and copies certified by him shall be sufficient evidence.

Service upon such attorney shall be sufficient service upon the principal.

Section 189. [Section 8.]—**Same—Process—Service of Copy upon Whom—Charge for Commissioner's Fee**—Whenever lawful process against an insurance company, corporation, or association shall be served upon the insurance commissioner, he shall forthwith mail a copy of such process to the secretary of

the company, or, in the case of companies of foreign countries, to the resident manager, if any, in this country. For each copy of process the commissioner shall collect two dollars, which shall be paid by the plaintiff at the time of such service, the same to be recovered by him as part of the taxable costs if he prevails in the suit.

Section 190. [Section 9.]**—Annual Statement—Time of Filing—**Every such company shall deposit with the insurance commissioner, annually, within sixty days after December 31st of the preceding year, a statement similar to that required by Sec. 5, signed and sworn to as therein directed, of the capital of such company, and its investments and risks as aforesaid, to be made up to the thirty-first day of December next preceding, together with such other information as the insurance commissioner may require.

Section 191. [Section 10.]**—License—Prerequisites to Issuing—**If the Insurance Commissioner be satisfied with the statements required by Sec. 5 and 7 of this Act, and if such company shall have complied with all other provisions of law, he shall issue his license to it to transact business in this State, said license to continue in force for one year unless sooner revoked, but no such license shall be issued unless such statements are furnished, provided, that the first license may issue upon the filing of the statement required by Sec. 5 of this Act, provided that all licenses shall expire March 31st, of each year.

Section 192. [Section 11.]**—Agents—Cannot Act until Financial Statement furnished—**No person shall act within this state as agent for such company, unless it is possessed of two hundred and fifty thousand dollars capital, and such capital to the extent of one hundred thousand dollars is invested in obligations of the United States or obligations created by or under the laws of the state in which such company is located, or in other safe stocks or securities, the value of which at the time of such deposit shall be at or above par, and such investments are deposited with the insurance commissioner, auditor, comptroller, or chief financial officer of the state under whose laws such company is incorporated; nor unless the insurance commissioner of this state is furnished with the certificate of

such insurance commissioner, auditor, comptroller, or chief financial officer aforesaid, under his hand and official seal, that he, as such insurance commissioner, auditor, comptroller, or chief financial officer of such state, holds in trust and on deposit for the benefit of all obligees of such company the securities before mentioned, which certificate shall describe the items of security so held, and shall state that he is satisfied that such securities are worth one hundred thousand dollars.

Section 193. [Section 12.]—**Who considered Agents**—Every person who shall receive or transmit applications for suretyship or receive for delivery bonds founded on applications forwarded from this State, or otherwise procure suretyship to be effected by such company upon the bonds of, or the bonds given to, persons or corporations in this state shall be deemed an agent of such company.

Section 194. [Section 13.]—**Agent's Certificate—Fee**—No person shall act as agent for such company without first procuring from the insurance commissioner a certificate of authority to act as such agent, the fees for such certificate of authority to be the same as those required of all insurance companies.

Section 195. [Section 14.]—**Agents—Acting without Authority—Penalty**—Every person who shall act as agent of any such company before it shall have complied with all the requirements of the laws of this state relating to such companies shall be fined one thousand dollars.

Section 196. [Section 15.]—**Commissioner—Examination of Books—Publication of Result**—The Insurance commissioner, either personally or by committee appointed by him, consisting of one or more persons not directors, officers, or agents of any surety company doing business in this state, may at any time examine the affairs of any surety company incorporated by or doing business in this state. The officer or agents of such company shall exhibit its books to said commissioner or committee and otherwise facilitate such examination, and the commissioner or committee may examine under oath the officers and agents of any such company in relation to its affairs. Said commissioner may, if he deem best, publish the result of such

investigation in one or more newspapers published in this state, provided that nothing in this section shall be construed to repeal, limit or change the provisions of House Bill 76, Eleventh Legislative Assembly, approved February 13, 1909, relating to the examination of insurance companies.

Section 197. [Section 16.]—**Insolvency—Refusal to pay Judgments—Revocation of License—Expense of Examination to be paid by Company**—When it shall appear to said commissioner from the statement of any such company or from an examination of its affairs that it is insolvent or is conducting its business fraudulently, or refuses or neglects to comply with the laws of the State relating to such companies, or, if any such company shall neglect or refuse to pay any final judgment or decree rendered against it upon any such bond, undertaking, recognizance or other obligation made or guarantee by it under the provisions of this Act, from which no appeal, writ of error or supersedeas has been taken for ninety days after the rendition of such judgment or decree, it shall be the duty of the clerk of the Court in which said judgment or decree was rendered to certify a copy thereof to the Insurance Commissioner, together with the fact that it remains unpaid; said commissioner shall revoke all licenses and the certificates of authority issued to such company and its agents, and he shall cause a notice thereof to be published in one or more newspapers published in this state, and the agent or agents of such company after such notice shall transact no further business in this State. All expenses of an examination made under the provisions of Sec. 13 shall be paid to said Commissioner by the company examined, provided that nothing in this section shall be construed to repeal, limit or change the provisions of House Bill 76, Eleventh Legislative Assembly, approved February 13, 1909, relating to examination of insurance companies.

Section 198. [Section 17.]—**Fees Payable**—Every such company organized in this State applying for admission to transact business in this State shall pay to the Insurance Commissioner, for the use of the State, ten dollars for filing the copy of its charter or articles of association, ten dollars for filing the statement preliminary to admission, and a like sum for each annual

statement thereafter. Every such company organized under the laws of any other state and admitted to transact business in this state, and each agent of every such company shall pay the same fees and taxes to the Insurance Commissioner of this State as are required by the laws of Montana from general insurance companies.

Section 199. [Section 18.]—**Fees Payable**—Every such company organized under the laws of any other state and admitted to transact business in this state, and each agent of every such company, shall pay the same fees and taxes to the Insurance Commissioner of this State as are imposed by such other states upon any similar companies incorporated by or organized under the laws of this State or upon the agents of any such companies transacting business in such other state.

Section 200. [Section 19.]—**Reinsurance—Reserve Fund—Amount**—Every surety company or association chartered by or doing business in this State and having the power to execute or guarantee surety or fidelity bonds or obligations, or guarantee the validity of titles or written instruments, shall at all times keep and maintain a reserve fund for reinsurance equal to fifty per centum of the gross amount of premiums received on business in force.

Section 201. [Section 20.]—**Annual Statement of Risks and Reserve Fund—Revocation of License—When**—Every such company or association shall, in its annual statement to the insurance Commissioner, report the gross amount of its risk outstanding on the thirty-first day of the previous December, classifying such risks in such manner as the Commissioner shall direct, and shall report the amount of its reserve fund as a liability in such annual statement; and the Commissioner may order any such company or association to cease doing business in this state whenever, upon examination of such company or association, he shall find that it has failed to comply with any provision of Sec. 19. this Section, or Sec. 21 of this Act.

Section 202. [Section 21.]—**Limit of Liability to one person or corporation**—No such company shall incur in behalf or on account of any one person, partnership, association or corporation, a liability for an amount larger than one-fourth of its

paid-up capital and surplus, unless it shall be secured from loss thereon beyond that amount by suitable and sufficient collateral agreements of indemnity, by deposit with it in pledge, or conveyance to it in trust for its protection, of property equal in value to the excess of its liability over such limit, or, in case such liability is incurred in behalf or on account of a fiduciary holding property in a trust capacity, by such deposit or other disposition of a sufficient portion of the estate so held that no further sale, mortgage, pledge, or other disposition can be made thereof without such company's approval, except by the decree of a court having proper jurisdiction.

Section 203. [Section 22.]—**Estoppel of Company to deny Liability**—No company which has executed any bond as surety under the provisions of this Act shall deny, in any proceedings for enforcing the liability which it assumed to incur, its corporate power to execute such instrument or assume such liability.

Section 204. [Section 23.]—**Court officers to allow Expense of Procuring Surety**—Any court or officer whose duty it is to pass upon the account of any person or corporation required by law to give a bond may, whenever such person or corporation has given any such surety company as surety upon such bond, allow in the settlement of such account a reasonable sum for the expense of procuring such surety.

Section 205. [Section 24.]—**Deposits heretofore made to returned**—Any and all deposits of money, securities or other property heretofore deposited by any foreign surety company in compliance with any law of this State shall be returned to and paid over to the company making such deposit within thirty days after this Act shall be in force and effect.

Section 206. [Section 25.]—**Repealing Clause**—All acts and parts of acts in conflict herewith are hereby repealed. (Act approved March 10, 1909.)

(Note: Chapter VII, Div. I, Part IV, Title III, Revised Codes of 1907, comprising sections 4178-4189, inclusive, repealed by Act of March 10, 1909, above.)

SENATE BILL NO. 67.

(Act approved March 1, 1909.)

An Act to prevent Discrimination by Surety Companies.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 207. [Section 1.]—**Companies to furnish Bonds or Undertakings to All Applicants**—It is hereby made the duty of all Surety Companies not organized under the laws of the State of Montana, but authorized to transact business therein, and doing business in said State, to provide all necessary bonds or undertakings for all residents of said State who shall make application therefor, and to furnish all such bonds or undertakings to all such applicants upon the same terms and conditions and without discrimination.

Section 208. [Section 2.]—**Refusal—Proceedings in District Court—Judgment**—In case of the refusal of any such Company to provide or furnish any applicant with a bond or undertaking, the applicant may file in the District Court of the County of his residence a petition setting forth the facts and praying that such Company be required to provide or furnish the bond or undertaking required; whereupon the Judge of said Court shall issue a citation to such Company commanding it to show cause, at a time and place to be named, in the citation, why it does not provide or furnish such bond or undertaking. At the time designated in the citation for answering the same the said Judge shall proceed summarily to hear the petition. If it shall appear that the refusal was made in good faith and for good and sufficient reasons, and that a written statement of such reasons had been theretofore furnished to said applicant as hereinbefore required, the petition shall be dismissed; but if the said Company shall fail to establish that its refusal was in good faith, and for good and sufficient reasons, judgment shall be rendered against it, commanding it to furnish or provide such bond, within a time to be fixed by the judgment.

Section 209. [Section 3.]—**Refusal to comply with Judgment—Revocation of License**—Should any such Company fail to comply with any such judgment its right to transact business in Montana shall thereupon cease, and an order shall be entered

in the said proceedings, after notice to it, adjudging its right so to transact business in Montana to be forfeited and commanding it to desist and refrain from transacting any business in this State, or from soliciting any such business without it, which order may be enforced in the same manner as injunctions generally; a certified copy of such order shall forthwith, on the entry of the same, be transmitted by the Clerk of the District Court in which said proceedings are had, to the State Auditor who shall file the same in his office and immediately revoke the license of the said Company and thereafter any person, association or corporation which may exact or require of any person, or make it a condition of employment, or the retention of employment, that he make or execute any bond or undertaking with such Company as surety shall be deemed guilty of a misdemeanor, (misdemeanor?), and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1000) provided, however, nothing herein shall be so construed as to deprive either party to such proceedings of the right of trial of any question of fact therein, by a jury.

Section 210. [Section 4.]—**Court Procedure—Provisions of Code applicable—Appeal to Supreme Court**—The provisions of the Code of Civil Procedure shall be applicable to the proceedings authorized by this Act except as herein provided, and except that an appeal from either the judgment or order in such action may be taken by the petition of the Surety Company to the Supreme Court but such appeal must be taken within sixty days after the same shall have been entered.

Section 211. [Section 5.]—**Repealing Clause**—All acts and parts of acts in conflict herewith are hereby repealed. (Act approved March 1, 1909.)

Compendium.

REQUIREMENTS FOR ADMISSION OF FIRE AND CASUALTY INSURANCE COMPANIES.

The law requires fire and casualty insurance companies to file with the Commissioner of Insurance the following documents and pay to him the following fees and taxes before they can be licensed to transact business in the state of Montana:

1. A certified copy of the character or articles of incorporation.

2. A statement showing financial condition of corporation as of date December 31st of the preceding year, which must be sworn to by at least two of the executive officers of the corporation.

3. Power of attorney properly executed on the department's blank form, appointing a resident of the state an attorney to accept service in each county in which an agency is established; also authorizing the Commissioner of Insurance of this state to accept service of process in case the regularly appointed attorney, for any cause, cannot accept service of process.

4. A certificate of compliance from the supervising officer of the corporation's home state, stating that it is licensed in said state to transact the kind or class of business which it seeks to do in this state.

5. If the corporation is organized under the laws of any foreign country it is required to file with the Commissioner of Insurance a statement showing, to his full satisfaction, that such corporation has deposited with some one of the United States, or territories, a sum not less than \$100,000 for the special benefit or security of the assured therein.

6. A sworn statement that the corporation has a paid up capital stock of not less than \$200,000, exclusive of any assets of any such company as shall be deposited in any other states or territories, or foreign countries, for the special benefit or security of the insured therein, provided that companies transacting a casualty insurance business are only required to have a capital stock fully paid up of \$100,000.

7. Admission fee required of all foreign insurance

companies except assessment life insurance companies.....	\$300.00
Filing annual statement.....	25.00
(Statement must be filed within 60 days from the 31st day of December of the preceding year)	
License to collect in any one year \$5000 or less in gross premiums (payable in advance).....	125.00
Tax on excess premiums collected, on the basis of \$20.00 per \$1000.	
Publication fee.....	9.00
Each agent's license, payable at time of application.....	5.00

(Agents licenses may be transferred during the lifetime on the same by the surrender of the original license and the proper notation made thereon by the Commissioner of Insurance.)

(One agent's license is held to be sufficient in the case of a firm or company acting as agent.)

Payment of \$300 admission fee is required but once, other fees are payable annually.

Miscellaneous companies doing a surety business are considered insurance companies and are subject to the same fees and taxes.

All licenses of insurance companies and agents expire March 31st of each year.

Mutual Hail—Cyclone and Tornado Insurance Companies—organized under the laws of another state, are required to comply with the provisions of the law governing fire and miscellaneous insurance companies, provided that such companies shall be possessed of assets in excess of all liabilities of an amount equal to at least \$50,000.

REQUIREMENTS FOR ADMISSION OF LIFE INSURANCE COMPANIES, EXCEPT ASSESSMENT LIFE INSURANCE COMPANIES.

The law requires foreign life insurance companies to file with the Commissioner of Insurance the following documents and pay to him the following fees and taxes before they can be admitted to the state of Montana.

1. A certified copy of the charter or articles of incorporation.

2. A statement showing the financial condition of the corporation as of date December 31st of the preceding year, same to be sworn to by at least two executive officers of the corporation.

3. Power of attorney properly executed on the department's blank form, appointing one resident of the state of Montana to accept service of process in the event of suit; also designating the Commissioner of Insurance to accept service in case of the disability of the regularly appointed agent.

4. A certificate of compliance from the supervising officer of the corporation's home state, stating that it is licensed in said state to transact the kind or class of business it seeks to do in this state.

5. A sworn statement that the corporation has a paid up capital stock of not less than \$100,000, or if it be a mutual company, a surplus equal to the amount required of capital stock companies, and that the same is invested in bonds of the United States, or of this state, or in interest paying bonds when they are at or above par of the state in which the company is located, or of some other state, or in notes or bonds secured by mortgages on unincumbered real estate within this or the state where such company is located, worth double the amount loaned thereon, which securities shall be on deposit with the financial officer of the state by whose laws the company is incorporated, or of some other state.

6. The Commissioner of Insurance shall be furnished with a certificate of the supervising official with whom the deposit is made, that he, as such official, holds in trust and on deposit for the benefit of all the policy holders of such company the

securities above mentioned, and the certificate shall show that such officer is satisfied that such securities are worth \$100,000.

7. Specimen copies of all policies, properly filled out, together with table of rates.

8. Admission fee required of all life insurance companies, except assessment life insurance companies.....\$300.00

Filing annual statement..... 25.00

(Statement must be filed within 60 days from the 31st day of December of the preceding year.)

License to collect in any one year \$5000 or less in gross premiums (payable in advance)..... 125.00

Tax on excess premiums collected, on the basis of \$20 per \$1000.

Publication fee..... 9.00

Each agent's license, payable at time of application.... 5.00

(Agents' licenses may be transferred during the life time of the same by the surrender of the original license and the proper notation made thereon by the Commissioner of Insurance.)

(On agent's license is held to be sufficient in the case of a firm or company acting as agent.)

Payment of \$300 admission fee is required but once, other fees are payable annually.

All licenses of insurance companies and agents expire March 31st of each year.

REQUIREMENTS FOR ADMISSION OF FOREIGN ASSESSMENT LIFE INSURANCE COMPANIES.

The law requires foreign assessment life insurance companies to file with the Commissioner of Insurance the following documents and pay to him the following fees and taxes; before they can be licensed to transact business in the state of Montana:

1. A certified copy of their charter or articles or incorporation.

2. A sworn statement showing that such corporation has deposited with the proper authorities of the state or government under which it is incorporated not less than \$50,000 as a guarantee fund for the security of its members.

3. A statement showing the financial condition of the corporation as of December 31st of the preceding year, same to be sworn to by its president and secretary, or like officers, showing a detailed account of expenses and of income, the amount of life indemnity in force, its assets and liabilities in detail, number of members and a certificate, sworn to by the president and secretary, or like officers, setting forth that an ordinary assessment upon the members is sufficient to pay its maximum certificate of membership to the full limit named therein, a copy of its policy or certificate of membership, application and by laws.

4. Power of attorney properly executed on the department's blank form, authorizing a resident of the state of Montana to receive service of process in the event of suit for such corporation; also authorizing the Commissioner of Insurance to accept service of process for the corporation in the event of the disability of the regularly appointed attorney.

5. Admission fee required of foreign assessment life insurance companies.....	\$100.00
Filing annual statement.....	25.00
(Statement must be filed within 60 days from the 31st day of December of the preceding year.)	
License to collect in any one year \$5000 or less in gross premiums (payable in advance).....	125.00
Tax on excess premiums collected, on the basis of \$20.00 per \$1000.	
Publication fee.....	9.00
Each agent's license, payable at the time of application..	5.00

Agents' licenses may be transferred during the lifetime of the same upon the surrender of the original license and the proper notation being made thereon by the Commissioner of Insurance.

One agent's license is held to be sufficient in the case of a firm or company acting as agent.

All fees but admission fee are payable annually.

All licenses of insurance companies and agents expire March 31st of each year.

REQUIREMENTS FOR ADMISSION OF FOREIGN
ASSESSMENT ACCIDENT INSURANCE COMPANIES.

It shall file with the Secretary of State a certified copy of its charter; a statement, under oath of its president and secretary that it is paying, and for the twelve months next preceding, has paid the maximum amount named in its policies or certificates in full. A copy of its policy or certificate and application, which must show that the liability of the assured to contribute to the payment of benefit is not limited to a fixed sum.

A certificate from the proper authority of its home state that such corporation is properly authorized to transact business in its own state.

Evidence satisfactory to the Commissioner of Insurance that such corporation has accumulated and maintains a reserve or emergency fund equal to at least \$5000, and which is for the benefit of the policy or certificate holders only, and is invested according to law, and such corporation shall add to such emergency fund thereafter two and one-half per cent. of the amount realized from its premium assessment or periodical call until such fund shall be equal to the amount of \$2.00 for every \$5000 of insurance in force.

Such corporation shall annually, thereafter, on or before the first day of March, file a complete statement of its business for the year ending December 31st, next preceding.

Such corporation shall appoint, in writing, some proper person of lawful age, a resident of this state, to be its true and lawful attorney upon whom all processes may be served; also designating the Commissioner of Insurance to accept service in case of the disability of the regularly appointed attorney.

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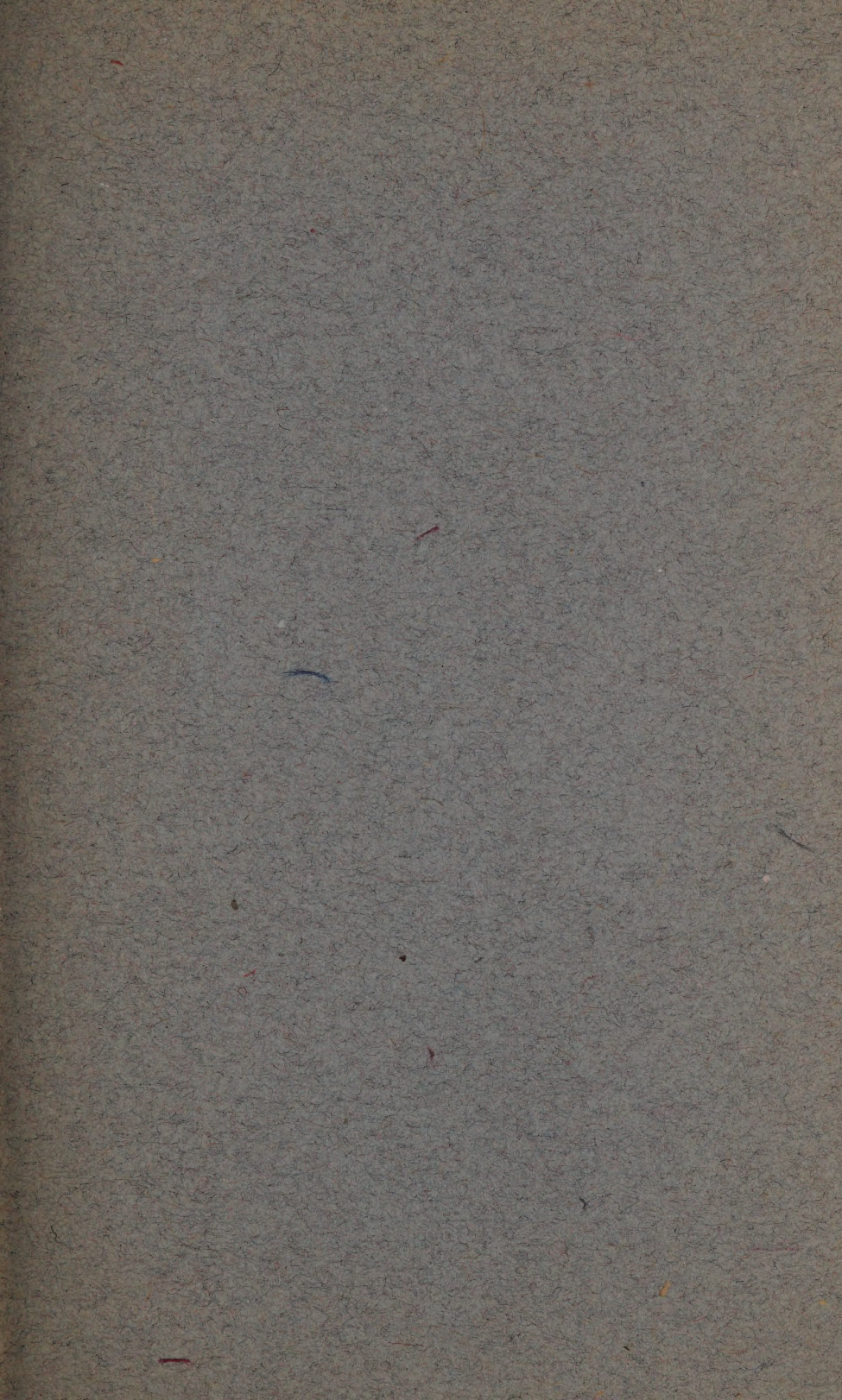
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